

HOUSE BILL NO. 431

INTRODUCED BY E. HILL SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CRIMINAL LAW REGARDING
5 JUVENILES; PROVIDING THAT COUNSEL FOR THE YOUTH MUST BE APPOINTED AT THE PRELIMINARY
6 INQUIRY STAGE WHEN THE JUVENILE PROBATION OFFICER QUESTIONS THE YOUTH ABOUT CERTAIN
7 OFFENSES; AMENDING SECTION 41-5-1202, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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11 **Section 1.** Section 41-5-1202, MCA, is amended to read:
12 **"41-5-1202. Preliminary inquiry -- procedure -- youth assessment.** (1) In conducting a preliminary
13 inquiry under 41-5-1201, the juvenile probation officer or assessment officer shall:

14 (a) advise the youth of the youth's rights under this chapter, including the right to counsel as provided
15 in subsection (2), and the constitutions of the state of Montana and the United States;

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

17 (c) determine, if the youth is in detention, a youth assessment center, or shelter care, whether detention,
18 placement in a youth assessment center, or shelter care should be continued or modified based upon criteria set
19 forth in 41-5-341 through 41-5-343.

20 (2) If the juvenile probation officer questions a youth regarding factual allegations sufficient to constitute
21 an offense under Title 45 or Title 61, chapter 8, part 4, the juvenile probation officer may not seek to elicit an
22 admission or a confession unless the youth has counsel and counsel is present or the youth has knowingly,
23 intelligently, and voluntarily waived the assistance of counsel after consultation with counsel.

24 ~~(2)~~(3) In conducting a preliminary inquiry, the juvenile probation officer or assessment officer may:

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

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

27 (c) require investigation of the matter by any law enforcement agency or any other appropriate state or
28 local agency;

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