

SENATE BILL NO. 17

INTRODUCED BY N. SWANDAL

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT JUVENILE OFFENDERS WITH NO HISTORY OF SEXUAL OFFENSES AND FOR WHOM REGISTRATION IS NOT NECESSARY TO PROTECT THE PUBLIC DO NOT HAVE TO REGISTER AS SEXUAL OFFENDERS; AMENDING SECTION 41-5-1513, MCA; AND PROVIDING AN APPLICABILITY DATE."

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 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.

1 (d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in
2 46-23-502, ~~and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the youth is~~
3 ~~exempt the youth~~ from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part 5, if unless
4 the court finds that:

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

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

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

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

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

18 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of
19 46-18-111;

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

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

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

30 (3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the

1 youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction
2 shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication,
3 any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the
4 name of the victim, and provide a copy of the court's disposition order to the superintendent.

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

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

11 (6) The duration of registration for a youth who is required to register as a sexual or violent offender must
12 be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration
13 of registration."

14
15 NEW SECTION. **Section 2. Applicability.** [This act] applies to offenses committed on or after [the
16 effective date of this act].

17 - END -