

HOUSE BILL NO. 303

INTRODUCED BY G. DEVRIES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO COMPULSORY
5 EDUCATION REQUIREMENTS; ELIMINATING COMPULSORY ENROLLMENT AND ATTENDANCE
6 REQUIREMENTS AND THE NEED FOR ATTENDANCE OFFICERS; ALLOWING A CHILD'S PARENT TO
7 DETERMINE THE BEST EDUCATIONAL SETTING FOR THE CHILD; REDUCING REGULATIONS ON
8 NONPUBLIC SCHOOLS AND HOME SCHOOLS; AMENDING SECTIONS 15-30-3102, 20-1-308, 20-3-206,
9 20-4-302, 20-4-402, 20-5-101, 20-5-111, 20-7-117, 20-7-435, 23-5-413, 41-5-103, 41-5-1203, AND 45-8-361,
10 MCA; REPEALING SECTIONS 20-5-102, 20-5-103, 20-5-104, 20-5-105, 20-5-106, 20-5-107, 20-5-108, AND
11 20-5-109, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 15-30-3102, MCA, is amended to read:

16 **"15-30-3102. (Temporary) Definitions.** As used in this part, the following definitions apply:

- 17 (1) "Department" means the department of revenue provided for in 2-15-1301.
- 18 (2) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on
19 or before September 10 of the year of attendance and has not yet reached 19 years of age.
- 20 (3) "Geographic region" has the meaning provided in 20-9-903.
- 21 (4) "Large district" has the meaning provided in 20-9-903.
- 22 (5) "Partnership" has the meaning provided in 15-30-2101.
- 23 (6) "Pass-through entity" has the meaning provided in 15-30-2101.
- 24 (7) "Qualified education provider" means an education provider that:
- 25 (a) is not a public school;
- 26 (b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or
27 national accreditation organization; or
- 28 (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing
29 at the time of enrollment that the provider is not accredited and is not seeking accreditation;
- 30 (c) is not a home school, ~~as referred to in 20-5-102(2)(e)~~ which for the purposes of this subsection (7)



1 means the instruction by a parent of the parent's child, stepchild, or ward in the parent's residence;

2 (d) administers a nationally recognized standardized assessment test or criterion-referenced test and:

3 (i) makes the results available to the child's parents or legal guardian; and

4 (ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a
5 publicly accessible private website or provides the composite results of the test to the office of public instruction
6 for posting on its website; and

7 (e) satisfies the health and safety requirements prescribed by law for private schools in this state; ~~and~~

8 ~~— (f) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.~~

9 (8) "Small business corporation" has the meaning provided in 15-30-3301.

10 (9) "Student scholarship organization" means a charitable organization in this state that:

11 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26
12 U.S.C. 501(c)(3);

13 (b) allocates not less than 90% of its annual revenue for scholarships to allow students to enroll with any
14 qualified education provider; and

15 (c) provides educational scholarships to eligible students without limiting student access to only one
16 education provider.

17 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2023--sec. 33, Ch.
18 457, L. 2015.)"

19

20 **Section 2.** Section 20-1-308, MCA, is amended to read:

21 **"20-1-308. Religious instruction released time program.** (1) The trustees of a school district may
22 provide for a religious instruction released time program under which a pupil may be released from regular school
23 attendance for the purpose of receiving religious instruction upon written request, renewed at least annually, of
24 the pupil's parent or guardian. The trustees shall determine the amount of time for which a pupil may be released
25 for religious instruction.

26 (2) A religious instruction released time program may not be established or administered in such a way
27 that public school property is utilized for the purpose of religious instruction.

28 (3) Public money may not be used, directly or indirectly, for the religious instruction.

29 (4) Any period for which a pupil is released under a religious instruction released time program is part
30 of the school day and week for purposes of 20-1-301, 20-1-302, ~~20-5-103~~, 20-9-311, and all other provisions of

1 Title 20, and the release may not adversely affect the pupil's attendance record."

2

3 **Section 3.** Section 20-3-206, MCA, is amended to read:

4 **"20-3-206. Additional positions.** In the capacity as county superintendent, the county superintendent
5 shall also serve as:

6 (1) the presiding officer of the county transportation committee, as prescribed by 20-10-131; and

7 ~~(2) an attendance officer for a district under the conditions prescribed by 20-5-104; and~~

8 ~~(3)~~(2) the clerk of a joint board of trustees under the conditions prescribed by 20-3-361."

9

10 **Section 4.** Section 20-4-302, MCA, is amended to read:

11 **"20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty --**
12 **defense.** (1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct
13 in school, on the way to or from school, or during intermission or recess.

14 (2) For the purposes of this section, "corporal punishment" means knowingly and purposely inflicting
15 physical pain on a pupil as a disciplinary measure.

16 (3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted
17 corporal punishment on a pupil.

18 (4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as
19 the placing of hands on a pupil in a manner that is reasonable and necessary to:

20 (i) quell a disturbance;

21 (ii) provide self-protection;

22 (iii) protect the pupil or others from physical injury;

23 (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control
24 of the pupil;

25 (v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line,
26 classroom, lunchroom, principal's office, or other on-campus facility; or

27 (vi) protect property from serious harm.

28 (b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not
29 constitute corporal punishment as long as the restraint is reasonable and necessary.

30 (5) A teacher in a district employing neither a district superintendent nor a principal at the school where

1 the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent
 2 or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for
 3 good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county
 4 superintendent immediately of the action.

5 (6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent,
 6 the principal, the trustees, or the county superintendent, whichever is applicable.

7 (7) If a person who is employed or engaged by a school district uses corporal punishment or more
 8 physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction
 9 of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

10 (8) A person named as a defendant in an action brought under this section may assert as an affirmative
 11 defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person
 12 bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined
 13 by the trier of fact."

14

15 **Section 5.** Section 20-4-402, MCA, is amended to read:

16 **"20-4-402. Duties of district superintendent or county high school principal.** The district
 17 superintendent or county high school principal is the executive officer of the trustees and, subject to the direction
 18 and control of the trustees, the executive officer shall:

19 (1) have general supervision of all schools of the district and the personnel employed by the district;

20 (2) implement and administer the policies of the trustees of the district;

21 (3) develop and recommend courses of instruction to the trustees for their consideration and approval
 22 in accordance with the provisions of 20-7-111;

23 (4) select all textbooks and submit the selections to the trustees for their approval in accordance with
 24 the provisions of 20-7-602;

25 (5) select all reference and library books and submit the selections to the trustees for their approval in
 26 accordance with provisions of 20-7-204;

27 (6) have general supervision of all pupils of the district, ~~enforce the compulsory attendance provisions~~
 28 ~~of this title, and have~~ and the authority to suspend for good cause a pupil of the district;

29 (7) report the pupil attendance, absence, and enrollment of the district and other pupil information
 30 required by the report form prescribed by the superintendent of public instruction to the county superintendent;

1 or county superintendents when reporting for a joint district; and
2 (8) perform other duties in connection with the district as the trustees may prescribe."
3

4 **Section 6.** Section 20-5-101, MCA, is amended to read:

5 **"20-5-101. Admittance of child to school.** (1) ~~The~~ Upon the voluntary enrollment of a child by the
6 child's parent, guardian, or other responsible party, the trustees shall assign and admit a child to a school in the
7 district when the child is:

8 (a) 6 years of age or older on or before September 10 of the year in which the child is to enroll but is not
9 yet 19 years of age;

10 (b) a resident of the district; and

11 (c) otherwise qualified under the provisions of this title to be admitted to the school.

12 (2) The trustees of a district may assign and admit any nonresident child to a school in the district under
13 the tuition provisions of this title.

14 (3) The trustees may at their discretion assign and admit a child to a school in the district who is under
15 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit
16 waiving the age provision of this section. The trustees may also admit an individual who has graduated from high
17 school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision
18 of this section.

19 (4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney
20 Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees
21 may not require an out-of-district attendance agreement or tuition for a homeless child.

22 (5) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance
23 with the tuition provisions of this title.

24 (6) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the
25 district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy.
26 Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the
27 assignment is final."
28

29 **Section 7.** Section 20-5-111, MCA, is amended to read:

30 **"20-5-111. ~~Responsibilities and rights~~ Rights of parent who provides home school. Subject to the**

1 ~~provisions of 20-5-109, a~~ A parent has the authority to instruct the parent's child, stepchild, or ward in a home
2 school and is solely responsible for:

- 3 (1) the educational philosophy of the home school;
4 (2) the selection of instructional materials, curriculum, and textbooks;
5 (3) the time, place, and method of instruction; and
6 (4) the evaluation of the home school instruction."
7

8 **Section 8.** Section 20-7-117, MCA, is amended to read:

9 **"20-7-117. Kindergarten and preschool programs.** (1) The trustees of an elementary district shall
10 establish or make available a kindergarten program capable of accommodating, at a minimum, all the children
11 in the district who will be 5 years old on or before September 10 of the school year for which the program is to
12 be conducted or who have been enrolled by special permission of the board of trustees. The kindergarten
13 program, which the trustees may designate as either a half-time or full-time program, must be an integral part of
14 the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion
15 in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age on or before September
16 10 of the school year covered by the calculation or have been enrolled by special permission of the board of
17 trustees. A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301.
18 A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person
19 who is responsible for the ~~enrollment of a child in school, as provided in 20-5-102,~~ child to enroll the child
20 half-time.

21 (2) The trustees of an elementary school district may establish and operate a free preschool program
22 for children between the ages of 3 and 5 years. When preschool programs are established, they must be an
23 integral part of the elementary school and must be governed accordingly. Financing of preschool programs may
24 not be supported by money available from state equalization aid."
25

26 **Section 9.** Section 20-7-435, MCA, is amended to read:

27 **"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and**
28 **in-state residential treatment programs for eligible children.** (1) It is the intent of the legislature that eligible
29 children in in-state children's psychiatric hospitals and residential treatment facilities be provided with an
30 appropriate educational opportunity in a cost-effective manner, including the provision of a free appropriate public

1 education for an eligible child with a disability that is consistent with state standards for the provision of special
2 education and related services. General education programs for eligible children without disabilities must be
3 provided in accordance with the requirements ~~for a nonpublic school under the provisions of 20-5-109~~ of
4 subsection (2).

5 (2) The superintendent of public instruction may contract with an in-state children's psychiatric hospital
6 or residential treatment facility for provision of an educational program for an eligible child in the hospital or
7 treatment facility if the hospital or treatment facility:

8 (a) provides at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301 and
9 20-1-302; and

10 (b) provides an organized course of study that includes instruction in the subjects required of public
11 schools as a basic instructional program pursuant to 20-7-111.

12 (3) Whenever the superintendent of public instruction contracts with an in-state children's psychiatric
13 hospital or residential treatment facility for provision of an educational program for an eligible child in the children's
14 psychiatric hospital or residential treatment facility, the superintendent of public instruction shall:

15 (a) ensure the provision of a free appropriate public education and an education that ~~is consistent with~~
16 ~~the requirements for a nonpublic school in 20-5-109~~ meets the requirements of subsection (2) for children
17 attending the hospital or residential treatment facility;

18 (b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs for
19 providing special education, including the costs of retirement benefits, federal social security system contributions,
20 and unemployment compensation insurance;

21 (c) from appropriations provided for this purpose, fund any approved allowable costs under this section,
22 with the exception of services for which reimbursement is made under any provision of state or federal law or an
23 insurance policy;

24 (d) provide funding for allowable costs according to a proration based on average daily membership.

25 (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who
26 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital or
27 residential treatment facility.

28 (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education in
29 accordance with ~~20-5-109~~ the requirements of subsection (2) or a free appropriate public education under the
30 provisions of this part for an eligible child at the children's psychiatric hospital or residential treatment facility or

1 fails to negotiate a contract under the provisions of subsection (2), the superintendent of public instruction shall
 2 negotiate with the school district in which the children's psychiatric hospital or residential treatment facility is
 3 located for the supervision and implementation of an appropriate educational program that is consistent with
 4 accreditation standards provided for in 20-7-111 and with the provisions of 20-7-402 for children attending the
 5 children's psychiatric hospital or residential treatment facility. The amount negotiated with the school district must
 6 include all education and related services costs that may be negotiated under the provisions of subsection (3)
 7 and all education and related services costs necessary to fulfill the requirements of providing the child with an
 8 education.

9 (6) Funds provided to a district under this section, including funds received under the provisions of
 10 20-7-420:

11 (a) must be deposited in the miscellaneous programs fund of the district that provides the education
 12 program for an eligible child, regardless of the age or grade placement of the child who is served under a
 13 negotiated contract; and

14 (b) are not subject to the budget limitations in 20-9-308."
 15

16 **Section 10.** Section 23-5-413, MCA, is amended to read:

17 **"23-5-413. Raffle prizes -- investigations -- rulemaking.** (1) (a) The department shall investigate all
 18 violations of this part.

19 (b) The department may adopt rules to require recordkeeping for receipts and payouts under this part
 20 and to establish procedures to ensure the fair selection of winners.

21 (2) (a) A person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle
 22 before the sale of any tickets.

23 (b) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an
 24 organization may not exceed \$5,000. Prizes may not be combined in any manner to increase the ultimate value
 25 of the prize awarded for each ticket.

26 (c) The provisions of subsections (2)(a) and (2)(b) do not apply to a nonprofit organization, a college,
 27 a university, a public school district as provided in 20-6-101 and 20-6-701, or a nonpublic school ~~as described~~
 28 ~~in 20-5-102(2)(e)~~ such as a parochial, church, religious, or private school. The proceeds from the sale of tickets
 29 for a raffle conducted by a nonprofit organization, college, university, or school district may be used only for
 30 charitable purposes or to pay for prizes and may not be used for the administrative costs of conducting the raffle.

1 (3) (a) The sale of raffle tickets authorized by this part is restricted to events and participants within the
2 geographic confines of the state. Nonprofit organizations may sell raffle tickets outside the state of Montana if
3 the purchase is not prohibited in the jurisdiction in which the purchaser resides.

4 (b) Except raffles sponsored by nonprofit organizations, the sale of raffle tickets may not be conducted
5 over the internet. All raffle announcements or advertisements conducted over the internet must include this sale
6 restriction, the name of the organization offering the raffle, and all raffle terms."

7

8 **Section 11.** Section 41-5-103, MCA, is amended to read:

9 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise,
10 the following definitions apply:

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

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

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

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

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

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

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

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

24 (9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to
25 41-5-206.

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

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

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

1 (a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or
2 (b) who has been placed on probation as a delinquent youth and who has violated any condition of
3 probation.

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

5 (13) (a) "Department records" means information or data, either in written or electronic form, maintained
6 by the department pertaining to youth who are committed under 41-5-1513(1)(b) or who are under parole
7 supervision.

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

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

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

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

16 (c) violation of a youth parole agreement.

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

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

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

23 (18) "Final disposition" means the implementation of a court order for the disposition or placement of a
24 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.

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

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

30 (20) "Foster home" means a private residence licensed by the department of public health and human

1 services for placement of a youth.

2 (21) "Guardian" means an adult:

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

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

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

8 ~~(23)~~(22) (a) "Holdover" means a room, office, building, or other place approved by the board of crime
9 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not
10 to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate
11 detention or shelter care facility.

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

13 ~~(24)~~(23) (a) "Informal youth court records" means information or data, either in written or electronic form,
14 maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and
15 includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and
16 supervision records of probationers.

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

19 ~~(25)~~(24) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
20 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after
21 arrest.

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

23 ~~(26)~~(25) "Judge", when used without further qualification, means the judge of the youth court.

24 ~~(27)~~(26) "Juvenile home arrest officer" means a court-appointed officer administering or supervising
25 juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

26 ~~(28)~~(27) "Law enforcement records" means information or data, either in written or electronic form,
27 maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

28 ~~(29)~~(28) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction
29 that gives a person the right and duty to:

30 (i) have physical custody of the youth;

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

1 ~~(39)~~(38) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

2 ~~(40)~~(39) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to
3 the facilities enumerated in 41-5-347.

4 ~~(44)~~(40) "Short-term detention center" means a detention facility licensed by the department for the
5 temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays,
6 pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth
7 assessment center, or shelter care facility.

8 ~~(42)~~(41) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or
9 the Riverside youth correctional facility in Boulder.

10 ~~(43)~~(42) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing
11 food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from
12 or are without the care and supervision of their parents or guardians.

13 ~~(44)~~(43) "Victim" means:

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

16 (b) an adult relative of the victim, as defined in subsection ~~(44)~~(43)(a), if the victim is a minor; and

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

18 ~~(45)~~(44) "Youth" means an individual who is less than 18 years of age without regard to sex or
19 emancipation.

20 ~~(46)~~(45) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

21 ~~(47)~~(46) "Youth assessment center" means a staff-secured location that is licensed by the department
22 of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate
23 and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing
24 the youth's behavior.

25 ~~(48)~~(47) "Youth care facility" has the meaning provided in 52-2-602.

26 ~~(49)~~(48) "Youth court" means the court established pursuant to this chapter to hear all proceedings in
27 which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court
28 judge, juvenile probation officers, and assessment officers.

29 ~~(50)~~(49) "Youth detention facility" means a secure detention facility licensed by the department for the
30 temporary substitute care of youth that is:

- 1 (a) (i) operated, administered, and staffed separately and independently of a jail; or
 2 (ii) a colocated secure detention facility that complies with 28 CFR, part 31; and
 3 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction
 4 for contempt of court, violation of a parole agreement, or violation of a valid court order.

5 ~~(54)~~(50) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

6 (a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal
 7 offense, including but not limited to a youth who:

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

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

13 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,
 14 chooses to regard as a youth in need of intervention."
 15

16 **Section 12.** Section 41-5-1203, MCA, is amended to read:

17 **"41-5-1203. Preliminary inquiry -- youth assessment.** (1) The juvenile probation officer or assessment
 18 officer may perform a youth assessment if:

19 (a) a youth has been referred to the youth court as an alleged youth in need of intervention with a
 20 minimum of two misdemeanor offenses or three offenses in the past year that would not be offenses if the youth
 21 were an adult;

22 (b) the youth is alleged to be a youth in need of intervention or a delinquent youth and the youth or the
 23 youth's parents or guardian requests the youth assessment and both the youth and the parents or guardian are
 24 willing to cooperate with the assessment process; or

25 (c) the circumstances surrounding a youth who has committed an act that would be a felony if committed
 26 by an adult indicate the need for a youth assessment and the safety of the community has been considered in
 27 determining where the youth assessment is conducted.

28 (2) A youth assessment:

29 (a) must be a multidisciplinary effort that may include, but is not limited to a chemical dependency
 30 evaluation of the youth, an educational assessment of the youth, an evaluation to determine if the youth has

1 mental health needs, or an assessment of the need for any family-based services or other services provided by
2 the department of public health and human services or other state and local agencies. The education component
3 of the youth assessment is intended to address attendance, behavior, and performance issues of the youth. The
4 education component is not intended to interfere with the right to attend a nonpublic or home school ~~that complies~~
5 ~~with 20-5-109.~~

6 (b) must include a summary of the family's strengths and needs as they relate to addressing the youth's
7 behavior;

8 (c) may occur in a youth's home, with or without electronic monitoring, or pursuant to 41-5-343 in a youth
9 assessment center licensed by the department of public health and human services or in any other entity licensed
10 by the department of public health and human services. The county shall provide adequate security in other
11 licensed entities through provision of additional staff or electronic monitoring. The staff provided by the county
12 must meet licensing requirements applicable to the licensed entity in which the youth is being held.

13 (3) The assessment officer arranging the youth assessment shall work with the parent or guardian of
14 the youth to coordinate the performance of the various parts of the assessment with any providers that may
15 already be working with the family or providers that are chosen by the family to the extent possible to meet the
16 goals of the Youth Court Act."

17

18 **Section 13.** Section 45-8-361, MCA, is amended to read:

19 **"45-8-361. Possession or allowing possession of weapon in school building -- exceptions --**
20 **penalties -- seizure and forfeiture or return authorized -- definitions.** (1) A person commits the offense of
21 possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores
22 a weapon in a school building.

23 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school
24 building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon
25 in a school building.

26 (3) (a) Subsection (1) does not apply to law enforcement personnel.

27 (b) The trustees of a district may grant persons and entities advance permission to possess, carry, or
28 store a weapon in a school building.

29 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned
30 in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration

1 that are available in the community.

2 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing
3 or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

4 (ii) If a weapon seized under the provisions of this section is subsequently determined to have been
5 stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the
6 lawful owner.

7 (5) As used in this section:

8 (a) "school building" means all buildings owned or leased by a local school district that are used for
9 instruction or for student activities. The term does not include a home school ~~provided for in 20-5-109.~~

10 (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a
11 straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other
12 article or instrument possessed with the purpose to commit a criminal offense."
13

14 **NEW SECTION. Section 14. Repealer.** The following sections of the Montana Code Annotated are
15 repealed:

- 16 20-5-102. Compulsory enrollment and excuses.
- 17 20-5-103. Compulsory attendance and excuses.
- 18 20-5-104. Attendance officer.
- 19 20-5-105. Attendance officer -- powers and duties.
- 20 20-5-106. Truancy.
- 21 20-5-107. Incapacitated and indigent child attendance.
- 22 20-5-108. Tribal agreement with district for Indian child compulsory attendance and other agreements.
- 23 20-5-109. Nonpublic school requirements for compulsory enrollment exemption.

24

25 **NEW SECTION. Section 15. Effective date.** [This act] is effective July 1, 2019.

26

- END -