

## 1 SENATE BILL NO. 344

2 INTRODUCED BY K. BOGNER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO  
 5 REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING  
 6 TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING  
 7 THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE  
 8 SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE  
 9 CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S  
 10 DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE  
 11 YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH;  
 12 ~~ELIMINATING A PROHIBITION ON THE DEPARTMENT FOR ABANDONING, MOVING, OR~~  
 13 ~~DISCONTINUING A CORRECTIONAL FACILITY OR STATE INSTITUTION; AND AMENDING SECTIONS 19-~~  
 14 ~~20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-~~  
 15 ~~1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005,~~  
 16 ~~45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-~~  
 17 ~~108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-~~  
 18 ~~1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-~~  
 19 ~~141, AND 53-30-702, MCA."~~

20

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

22

23 **Section 1.** Section 19-20-101, MCA, is amended to read:

24 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the  
 25 following definitions apply:

26 (1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted  
 27 from the compensation of a member or paid by a member and credited to the member's individual account in  
 28 the annuity savings account, together with interest, minus any amount deducted for correction of errors and the

1 aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on  
2 behalf of the member.

3 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the  
4 mortality table and interest rate assumption set by the retirement board.

5 (3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that  
6 becomes a beneficiary pursuant to 19-20-1005.

7 (4) "Average final compensation" means a member's highest average earned compensation,  
8 determined pursuant to 19-20-805, on which all required contributions have been made.

9 (5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to  
10 this chapter by which a person authorized by law designates one or more beneficiaries.

11 (6) "Beneficiary designation record" means either the hard copy form or electronic record prescribed  
12 by the retirement system and used by a person authorized by law to designate one or more beneficiaries.

13 (7) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a  
14 retirement allowance.

15 (8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or  
16 refund of accumulated contributions payable if there is no eligible primary beneficiary.

17 (9) "Creditable service" is that service defined by 19-20-401.

18 (10) "Date of termination" or "termination date" means the last date on which a member performed  
19 service in a position reportable to the retirement system.

20 (11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries  
21 designated pursuant to 19-20-1006.

22 (12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by 19-  
23 20-715, remuneration paid for the service of a member out of funds controlled by an employer before any  
24 pretax deductions allowed under the Internal Revenue Code are deducted.

25 (b) Earned compensation does not include:

26 (i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability,  
27 life, vision, dental, or any other insurance;

28 (ii) any direct employer payment or reimbursement for:

- 1 (A) professional membership dues;
- 2 (B) maintenance;
- 3 (C) housing;
- 4 (D) day care;
- 5 (E) automobile, travel, lodging, or entertaining expenses; or
- 6 (F) any similar form of maintenance, allowance, or expenses;
- 7 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 8 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 9 (v) termination pay unless included pursuant to 19-20-716;
- 10 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
- 11 of the Internal Revenue Code, 26 U.S.C. 457(f);
- 12 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
- 13 employment or accrued in excess of that normally allowed;
- 14 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;
- 15 (ix) a professional stipend paid pursuant to 20-4-134; or
- 16 (x) any similar payment or reimbursement made to or on behalf of a member by an employer.
- 17 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the
- 18 same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.
- 19 (13) "Employer" means:
- 20 (a) the state of Montana;
- 21 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 22 (c) the office of public instruction;
- 23 (d) the board of public education;
- 24 (e) an education cooperative;
- 25 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 26 (g) the Montana youth challenge program, as defined in 10-1-101;
- 27 (h) a ~~state youth~~-correctional facility, as defined in 41-5-103;
- 28 (i) the Montana university system;

1 (j) a community college; or

2 (k) any other agency, political subdivision, or instrumentality of the state that employs a person who is  
3 designated a member of the retirement system pursuant to 19-20-302.

4 (14) "Extra duty service" means service in an educational services capacity that is not compensated as  
5 part of the normally assigned duties and functions of a school district teacher, administrator, or other employee  
6 but is regularly assigned to one or more school district teachers, administrators, or other employees as part of  
7 the regular operation of the school district's curricular and extracurricular programs.

8 (15) "Full-time service" means service that is:

9 (a) at least 180 days in a fiscal year;

10 (b) at least 140 hours a month during at least 9 months in a fiscal year; or

11 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school  
12 board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service  
13 for a school district operating under an alternative school calendar must be applied uniformly to all employees  
14 of the school district required to be reported to the retirement system.

15 (16) "Individual" means a human being.

16 (17) "Internal Revenue Code" has the meaning provided in 15-30-2101.

17 (18) "Joint annuitant" means the one person that a retired member who has elected an optional  
18 allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of  
19 the retired member.

20 (19) "Member" means a person who has an individual account in the annuity savings account. Unless  
21 otherwise specified, "member" refers to a tier one member or a tier two member.

22 (20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the  
23 lifetime of the retired member.

24 (21) "Normal retirement age" means an age no earlier than 60 years of age.

25 (22) "Part-time service" means service that is not full-time service. Part-time service must be credited  
26 in the proportion that the actual time worked compares to full-time service.

27 (23) "Position reportable to the retirement system" means a position in which an individual performs  
28 duties that would entitle the person to active membership in the retirement system under the provisions of 19-

1 20-302.

2 (24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or  
3 refund of accumulated contributions payable upon the death of the individual authorized by law to make the  
4 designation.

5 (25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-  
6 501(2).

7 (26) "Retired", "retired member", or "retiree" means a person who is considered in retired member  
8 status under the provisions of 19-20-810.

9 (27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member  
10 who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

11 (28) "Retirement board" or "board" means the retirement system's governing board provided for in 2-  
12 15-1010.

13 (29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of  
14 Montana provided for in 19-20-102.

15 (30) "Service" means the performance of duties that would entitle the person to active membership in  
16 the retirement system under the provisions of 19-20-302.

17 (31) "Termination" or "terminate" means that the employment relationship between the member and  
18 the member's employer has been terminated as required in 19-20-810.

19 (32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,  
20 amounts provided under a window or early retirement incentive plan, or other payments contingent on the  
21 employee terminating employment.

22 (b) Termination pay does not include:

23 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without  
24 regard to the wage base limitation; and

25 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section  
26 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

27 (33) "Tier one member" means a person who became a member before July 1, 2013, and who has not  
28 withdrawn the member's account balance.

1 (34) "Tier two member" means a person who became a member on or after July 1, 2013, or who, after  
 2 withdrawing the member's account balance, became a member again after July 1, 2013.

3 (35) "Vested" means that a member has been credited with at least 5 full years of membership service  
 4 upon which contributions have been made and has a right to a future retirement benefit.

5 (36) "Written application" or "written election" means a written instrument, required by statute or the  
 6 rules of the board, properly signed and filed with the board, that contains all the required information, including  
 7 documentation that the board considers necessary."  
 8

9 **Section 2.** Section 20-4-134, MCA, is amended to read:

10 **"20-4-134. Professional stipends for teachers certified by national board for professional**  
 11 **teaching standards.** (1) Pursuant to subsection (5), an annual stipend of up to \$1,500 must be provided to  
 12 each teacher who holds a current certificate from the national board for professional teaching standards if the  
 13 teacher is:

14 (a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment  
 15 covered by national board certification assessment;

16 (b) certified to teach in Montana under the provisions of 20-4-103; and

17 (c) a full-time employee of:

18 (i) a Montana public school district, as defined in 20-6-101;

19 (ii) an education cooperative, as described in 20-7-451;

20 (iii) the Montana school for the deaf and blind, as described in 20-8-101; or

21 (iv) a ~~state youth~~ correctional facility, as defined in 41-5-103.

22 (2) An annual stipend of up to \$2,500 must be provided to each teacher who meets the criteria for the  
 23 stipend in subsection (1) and who has an instructional assignment in a school identified as:

24 (a) a school in a high-poverty area eligible to participate in the community eligibility provision under  
 25 Public Law 111-296; or

26 (b) an impacted school as defined in 20-4-502.

27 (3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1  
 28 after the teacher obtains certification or recertification from the national board for professional teaching

1 standards.

2 (4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity  
3 listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

4 (5) The obligation for funding a portion of the professional stipends is an obligation of the state. This  
5 section may not be construed to require a school district to provide its matching portion of a stipend to a  
6 qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is  
7 not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall  
8 request the state budget director to submit a request for a supplemental appropriation in the second year of the  
9 biennium that is sufficient to complete the funding of the stipends.

10 (6) (a) For a stipend under subsection (1), the state shall pay \$500 and another \$1 for each \$1  
11 contributed by the teacher's school district, up to a maximum state contribution of \$1,000.

12 (b) For a stipend under subsection (2), the state shall pay \$1,000 and another \$2 for each \$1  
13 contributed by the teacher's school district, up to a maximum state contribution of \$2,000."  
14

15 **Section 3.** Section 20-4-502, MCA, is amended to read:

16 **"20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following  
17 definitions apply:

18 (1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an  
19 impacted school in which:

20 (a) in any of the 3 immediate preceding school fiscal years a position was:

21 (i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

22 (ii) filled from a candidate pool of less than five qualified candidates; or

23 (iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in  
24 excess of 30 days; or

25 (b) a vacancy for the current school year was advertised for a period of at least 30 days and the  
26 district received less than five applications from qualified candidates.

27 (2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-  
28 451.

1 (3) "Educational loans" means all loans made pursuant to a federal loan program, except federal  
2 parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

3 (4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C.  
4 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

5 (5) "Impacted school" means:

6 (a) a special education cooperative;

7 (b) the Montana school for the deaf and blind, as described in 20-8-101;

8 (c) the Montana youth challenge program, as established in 10-1-1401;

9 (d) a ~~state youth~~ correctional facility, as defined in 41-5-103;

10 (e) a public school located on an Indian reservation; and

11 (f) a public school that, driving at a reasonable speed for the road surface, is located more than 20  
12 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial  
13 census.

14 (6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of  
15 public instruction for accreditation purposes in the current school year, who:

16 (i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in  
17 subsection (6)(b) in a position that requires an educator license in accordance with administrative rules adopted  
18 by the board of public education; or

19 (ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301,  
20 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (6)(b) of this section to  
21 provide services to students.

22 (b) For purposes of subsection (6)(a), an entity means:

23 (i) a school district;

24 (ii) an education cooperative;

25 (iii) the Montana school for the deaf and blind, as described in 20-8-101;

26 (iv) the Montana youth challenge program; and

27 (v) a ~~state youth~~ correctional facility, as defined in 41-5-103.

28 (7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."



1

2           **Section 4.** Section 20-9-327, MCA, is amended to read:

3           **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

4           (i) public school districts, as defined in 20-6-101 and 20-6-701;

5           (ii) special education cooperatives, as described in 20-7-451;

6           (iii) the Montana school for the deaf and blind, as described in 20-8-101;

7           (iv) ~~state youth~~ correctional facilities, as defined in 41-5-103; and

8           (v) the Montana youth challenge program.

9           (b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded  
10 under the provisions of this section except by approval of the superintendent of public instruction.

11           (2) (a) The quality educator payment for special education cooperatives must be distributed directly  
12 to those entities by the superintendent of public instruction.

13           (b) The quality educator payment for the Montana school for the deaf and blind must be distributed to  
14 the Montana school for the deaf and blind.

15           (c) The quality educator payment for Pine Hills ~~youth~~ correctional facility and the facility under  
16 contract with the department of corrections for female youth must be distributed to those facilities by the  
17 department of corrections.

18           (d) The quality educator payment for the Montana youth challenge program must be distributed to that  
19 program by the department of military affairs.

20           (3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time  
21 equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the  
22 previous school year, each of whom:

23           (a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in  
24 subsection (1) of this section in a position that requires an educator license in accordance with the  
25 administrative rules adopted by the board of public education;

26           (b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-  
27 301, 37-23-201, 37-24-301, or 37-25-302; and

28           (ii) is employed by an entity listed in subsection (1) to provide services to students; or

- 1 (c) (i) holds an American Indian language and culture specialist license; and  
 2 (ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian  
 3 language immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30,  
 4 2023--sec. 1, Ch. 171, L. 2019.)"

5

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

7 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires  
 8 otherwise, the following definitions apply:

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

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

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

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

15 (5) "Conditional release" means the release of a youth from a ~~state youth~~ correctional facility subject  
 16 to the terms and conditions of the conditional release agreement provided for in 52-5-126.

17 (6) (a) "Correctional facility" means a public secure residential facility or a private, physically secure  
 18 residential facility under contract with the department and operated solely for the purpose of housing  
 19 adjudicated delinquent youth to provide for the custody, treatment, training, and rehabilitation of:

20 (i) formally adjudicated delinquent youth;

21 (ii) convicted adult offenders or criminally convicted youth; or

22 (iii) a combination of the populations described in subsections (6)(a)(i) and (6)(a)(ii) under conditions  
 23 set by the department in rule.

24 (b) The term does not include a state prison as defined in 53-30-101.

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

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

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

2 (10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to  
3 41-5-206.

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

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

7 (12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the  
8 Montana Youth Court Act as a youth:

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

10 (b) who has been placed on probation as a delinquent youth and who has violated any condition of  
11 probation; or

12 (c) who has violated the terms and conditions of the youth's conditional release agreement.

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

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

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

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

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

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

24 (c) violation of the terms and conditions of the youth's conditional release agreement.

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

28 (17) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days

1 to protect the youth when there is no alternative placement available.

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

4 (19) "Final disposition" means the implementation of a court order for the disposition or placement of a  
5 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-  
6 1525.

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

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

13 (21) "Foster home" means a private residence licensed by the department of public health and human  
14 services for placement of a youth.

15 (22) "Guardian" means an adult:

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

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

19 (23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of  
20 a day, whichever is less, in 1 school year.

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

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

26 (25) (a) "Informal youth court records" means information or data, either in written or electronic form,  
27 maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and  
28 includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and

1 supervision records of probationers.

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

4 (26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal  
5 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults  
6 after arrest.

7 (b) The term does not include a collocated juvenile detention facility that complies with 28 CFR, part  
8 31.

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

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

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

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

16 (i) have physical custody of the youth;

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

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

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

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

22 (31) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

23 (32) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other  
24 than a custodial parent's home, for purposes other than preadjudicatory detention.

25 (b) The term does not include shelter care or emergency placement of less than 45 days.

26 (33) (a) "Parent" means the natural or adoptive parent.

27 (b) The term does not include:

28 (i) a person whose parental rights have been judicially terminated; or

1 (ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an  
2 adjudication or by other clear and convincing proof.

3 (34) "Probable cause hearing" means the hearing provided for in 41-5-332.

4 (35) "Regional detention facility" means a youth detention facility established and maintained by two or  
5 more counties, as authorized in 41-5-1804.

6 (36) "Restitution" means payments in cash to the victim or with services to the victim or the general  
7 community when these payments are made pursuant to a consent adjustment, consent decree, or other youth  
8 court order.

9 (37) "Running away from home" means that a youth has been reported to have run away from home  
10 without the consent of a parent or guardian or a custodian having legal custody of the youth.

11 (38) "Secure detention facility" means a public or private facility that:

12 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal  
13 offenses or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional  
14 release agreement, or violation of a valid court order; and

15 (b) is designed to physically restrict the movements and activities of youth or other individuals held in  
16 lawful custody of the facility.

17 (39) "Serious juvenile offender" means a youth who has committed an offense that would be  
18 considered a felony offense if committed by an adult and that is an offense against a person, an offense against  
19 property, or an offense involving dangerous drugs.

20 (40) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

21 (41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the  
22 facilities enumerated in 41-5-347.

23 (42) "Short-term detention center" means a detention facility licensed by the department for the  
24 temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal  
25 holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility,  
26 youth assessment center, or shelter care facility.

27 ~~(43) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the~~  
28 ~~correctional facility under contract with the department for female youth.~~

1           ~~(44)~~(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of  
2 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are  
3 removed from or are without the care and supervision of their parents or guardians.

4           ~~(45)~~(44) "Victim" means:

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

7           (b) an adult relative of the victim, as defined in subsection ~~(45)(a)~~ (44)(a), if the victim is a minor; and

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

9           ~~(46)~~(45) "Youth" means an individual who is less than 18 years of age without regard to sex or  
10 emancipation.

11           ~~(47)~~(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-  
12 1203.

13           ~~(48)~~(47) "Youth assessment center" means a staff-secured location that is licensed by the department  
14 of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate  
15 and comprehensive community-based youth assessment to assist the youth and the youth's family in  
16 addressing the youth's behavior.

17           ~~(49)~~(48) "Youth care facility" has the meaning provided in 52-2-602.

18           ~~(50)~~(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in  
19 which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth alleged to have  
20 violated the terms and conditions of the youth's conditional release agreement and includes the youth court  
21 judge, juvenile probation officers, and assessment officers.

22           ~~(54)~~(50) "Youth detention facility" means a secure detention facility licensed by the department for the  
23 temporary substitute care of youth that is:

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

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

26           (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a  
27 sanction for contempt of court, violation of the terms and conditions of the youth's conditional release  
28 agreement, or violation of a valid court order.

1           ~~(52)~~(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

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

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

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

9           (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,  
10 chooses to regard as a youth in need of intervention."  
11

12           **Section 6.** Section 41-5-106, MCA, is amended to read:

13           "**41-5-106. Order of adjudication -- noncriminal.** ~~No~~A placement of any youth in any ~~state youth~~  
14 correctional facility under this chapter ~~shall~~may not be deemed commitment to a penal institution. ~~No~~An  
15 adjudication ~~upon~~on the status of any youth in the jurisdiction of the court ~~shall~~may not operate to impose any  
16 of the civil disability imposed on a person by reason of conviction of a criminal offense,..... ~~nor shall such~~An  
17 adjudication may not be deemed a criminal conviction, ~~nor shall any and a~~ youth may not be charged with or  
18 convicted of any crime in any court except as provided in this chapter. Neither the disposition of a youth under  
19 this chapter nor evidence given in youth court proceedings under this chapter ~~shall be~~is admissible in evidence  
20 except as otherwise provided in this chapter."  
21

22           **Section 7.** Section 41-5-122, MCA, is amended to read:

23           "**41-5-122. Duties of youth placement committee.** A youth placement committee shall:

24           (1) review all information relevant to the placement of a youth;

25           (2) consider available resources appropriate to meet the needs of the youth;

26           (3) consider the treatment recommendations of any professional person who has evaluated the youth;

27           (4) consider options for the financial support of the youth;

28           (5) recommend in writing to the youth court judge or the department an appropriate placement for the



1 youth, considering the age and treatment needs of the youth and the relative costs of care in facilities  
 2 considered appropriate for placement. A committee shall consider placement in a licensed facility, at a ~~state~~  
 3 ~~youth~~-correctional facility, or with a parent, other family member, or guardian.

4 (6) review temporary and emergency placements as required under 41-5-124; and

5 (7) conduct placement reviews at least every 6 months and at other times as requested by the youth  
 6 court."

7

8 **Section 8.** Section 41-5-206, MCA, is amended to read:

9 **"41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county  
 10 attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201,  
 11 file with the district court a motion for leave to file an information in the district court if:

12 (a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful  
 13 and the unlawful act would if it had been committed by an adult constitute:

14 (i) sexual intercourse without consent as defined in 45-5-503;

15 (ii) deliberate homicide as defined in 45-5-102;

16 (iii) mitigated deliberate homicide as defined in 45-5-103;

17 (iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

18 (v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either  
 19 deliberate or mitigated deliberate homicide; or

20 (b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful  
 21 and the unlawful act is one or more of the following:

22 (i) negligent homicide as defined in 45-5-104;

23 (ii) arson as defined in 45-6-103;

24 (iii) aggravated assault as defined in 45-5-202;

25 (iv) sexual assault as provided in 45-5-502(3);

26 (v) assault with a weapon as defined in 45-5-213;

27 (vi) robbery as defined in 45-5-401;

28 (vii) burglary or aggravated burglary as defined in 45-6-204;

- 1 (viii) aggravated kidnapping as defined in 45-5-303;  
2 (ix) possession of explosives as defined in 45-8-335;  
3 (x) criminal distribution of dangerous drugs as defined in 45-9-101;  
4 (xi) criminal possession of dangerous drugs as defined in 45-9-102(3);  
5 (xii) criminal possession with intent to distribute as defined in 45-9-103(1);  
6 (xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;  
7 (xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal  
8 street gang membership as defined in 45-8-403;  
9 (xv) escape as defined in 45-7-306;  
10 (xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts  
11 enumerated in subsections (1)(b)(i) through (1)(b)(xv).

12 (2) The county attorney shall file with the district court a petition for leave to file an information in  
13 district court if the youth was 17 years of age at the time the youth committed an offense listed under  
14 subsection (1).

15 (3) The district court shall grant leave to file the information if it appears from the affidavit or other  
16 evidence supplied by the county attorney that there is probable cause to believe that the youth has committed  
17 the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a  
18 hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is  
19 waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on  
20 request of either party for good cause. The district court may not transfer the case back to the youth court  
21 unless the district court finds, by a preponderance of the evidence, that:

- 22 (a) a youth court proceeding and disposition will serve the interests of community protection;  
23 (b) the nature of the offense does not warrant prosecution in district court; and  
24 (c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

25 (4) The filing of an information in district court terminates the jurisdiction of the youth court over the  
26 youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for  
27 a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the  
28 district court as provided in this section. A case may be transferred to district court after prosecution as

1 provided in 41-5-208 or 41-5-1605.

2 (5) An offense not enumerated in subsection (1) that arises during the commission of a crime  
3 enumerated in subsection (1) may be:

4 (a) tried in youth court;

5 (b) transferred to district court with an offense enumerated in subsection (1) upon motion of the  
6 county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

7 (6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any  
8 offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the  
9 youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses  
10 enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining  
11 offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must  
12 be evaluated and placed by the department in an appropriate ~~juvenile or adult~~ correctional facility. The  
13 department shall confine the youth in an institution that it considers proper, including a ~~state youth~~ correctional  
14 facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a  
15 state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an  
16 education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C.  
17 1400, et seq.

18 (7) If a youth's case is filed in the district court and remains in the district court after the transfer  
19 hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the  
20 youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted  
21 of criminal offenses."

22

23 **Section 9.** Section 41-5-208, MCA, is amended to read:

24 **"41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition --**

25 **nonextended jurisdiction and nontransferred cases.** (1) After adjudication by the court of a case that was  
26 not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile  
27 prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county  
28 attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from

1 juvenile probation services to adult probation services. A transfer under this section may be made to ensure  
2 continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time  
3 after a youth reaches 18 years of age but before the youth reaches 21 years of age.

4 (2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The  
5 hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that  
6 the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel,  
7 and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing  
8 at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

9 (a) written notice of the motion to transfer;

10 (b) an opportunity to be heard in person and to present witnesses and evidence;

11 (c) a written statement by the court of the evidence relied on and reasons for the transfer;

12 (d) the right to cross-examine witnesses, unless the court finds good cause for not allowing  
13 confrontation; and

14 (e) the right to counsel.

15 (3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing  
16 supervisory responsibility to the district court is appropriate, the court shall order the transfer.

17 (4) If a youth whose case has been transferred to district court under this section violates a  
18 disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose  
19 conditions as provided under 46-18-201 through 46-18-203 but may not place a youth in a state adult  
20 correctional facility unless the youth was adjudicated for a felony offense.

21 (5) If, at the time of transfer, the youth is incarcerated in a ~~state youth~~ correctional facility, the district  
22 court may order that the youth, after reaching 18 years of age:

23 (a) be incarcerated in a state adult correctional facility if the youth was adjudicated for a felony  
24 offense, boot camp, or prerelease center; or

25 (b) be supervised by the department.

26 (6) The district court's jurisdiction over a case transferred under this section terminates when the  
27 youth reaches 25 years of age."  
28

1           **Section 10.** Section 41-5-355, MCA, is amended to read:

2           "**41-5-355. Excessive juvenile population -- confinement**Confinement **of juveniles in alternate**  
3 **placements.** (1) The department shall determine the capacity for ~~state youth~~ of correctional facilities. The  
4 department shall ~~notify all district courts, sheriffs, and youth courts of the capacity for each state youth~~  
5 ~~correctional facility by sending a report to each annually.~~

6           ~~(2) If the population of a state youth correctional facility exceeds the capacity established by the~~  
7 ~~department, the director of the department may declare that the capacity has been exceeded and temporarily~~  
8 ~~stop admissions to the facility. The director shall notify each district court, sheriff, and youth court that~~  
9 ~~delinquent or criminally convicted youth will not be accepted by the department for admission into the facility~~  
10 ~~until the population is reduced to less than the capacity determined by the department in subsection (1).~~

11           ~~(3)(2) If the director of the~~ The department declares that the capacity has been exceeded, the  
12 department shall may place delinquent youth committed to a ~~state youth~~ correctional facility or criminally  
13 convicted youth in ~~alternate placements~~ based on the needs of the delinquent youth or criminally convicted  
14 youth. If a youth is denied placement in a ~~state youth~~ correctional facility under this section, the department  
15 shall ~~inform and seek approval of the district court of the intended alternative placement prior to placing the~~  
16 ~~youth.~~

17           ~~(4)(3)~~ (3) The department may enter into contracts with the federal government, other states, local  
18 governments, public or private corporations, and other entities that have suitable facilities for confining  
19 delinquent youth or criminally convicted youth committed to the department, ~~either because a state youth~~  
20 ~~correctional facility has exceeded its capacity or because the department has no youth correctional facility that~~  
21 ~~is adequate for certain delinquent youth or criminally convicted youth."~~

22

23           **Section 11.** Section 41-5-1416, MCA, is amended to read:

24           "**41-5-1416. Victims and witnesses of juvenile felony offenses -- consultation -- notification of**  
25 **proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided  
26 under Title 46, chapter 24, to a victim or witness of a crime are also provided to the victim or witness of a  
27 juvenile felony offense.

28           (2) In a proceeding filed under this part, the county attorney or a designee shall consult with the victim

1 of a juvenile felony offense regarding the disposition of the case, including:

2 (a) a dismissal of the petition filed under 41-5-1402;

3 (b) a reduction of the charge to misdemeanor;

4 (c) the release of the youth from detention or shelter care pending the adjudicatory hearing or pending  
5 a probable cause hearing. The consultation required by this subsection (2)(c) must take place prior to the  
6 youth's release, whether or not the county attorney or designee has received information from the victim under  
7 subsection (3)(a), unless the county attorney or designee is unable to contact the victim after making a good  
8 faith effort to contact the victim.

9 (d) the disposition of the youth.

10 (3) (a) Whenever possible, a person described in subsection (3)(b) who provides the appropriate  
11 agency with a current address and telephone number must receive prompt advance notification of youth court  
12 case proceedings, including:

13 (i) the filing of a petition under 41-5-1402;

14 (ii) the release of the youth from detention or shelter care; and

15 (iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent  
16 decree under 41-5-1501, the setting of a date for the adjudicatory hearing under 41-5-1502, the setting of a  
17 date for the dispositional hearing under 41-5-1511, the disposition made, and the release of the youth from a  
18 ~~youth~~-correctional facility.

19 (b) A person entitled to notification under this subsection (3) must be a victim, as defined in 41-5-103,  
20 of a juvenile felony offense.

21 (c) The county attorney or a designee who provides the consultation regarding the disposition of a  
22 case required in subsection (2) shall give the victim the opportunity to provide the victim's current telephone  
23 number and address and shall provide the victim with the name and address of the agency or agencies  
24 responsible for operation of youth detention, correctional, or shelter care facilities that are responsible for the  
25 custody of the youth.

26 (d) The appropriate official or agency shall provide the notification required by this subsection (3) in  
27 the same manner as required for offenses committed by adults.

28 (4) For purposes of this section, "juvenile felony offense" means an offense committed by a juvenile

1 that, if committed by an adult, would constitute a felony offense. The term includes any offense for which a  
2 juvenile may be declared a serious juvenile offender, as defined in 41-5-103."

3

4 **Section 12.** Section 41-5-1430, MCA, is amended to read:

5 **"41-5-1430. Conditional release revocation hearing.** (1) (a) If a county attorney files a petition to  
6 revoke a youth's conditional release, the court shall hold a revocation hearing without a jury within 10 working  
7 days after the petition is filed, except as provided in subsection (1)(b).

8 (b) (i) If a youth alleged to have violated the terms and conditions of the youth's conditional release  
9 agreement has been taken into custody and placed in detention, the court shall conduct a probable cause  
10 hearing in accordance with 41-5-332 through 41-5-334.

11 (ii) If the court determines that there is probable cause to believe that the youth has violated the terms  
12 and conditions of the youth's conditional release agreement and the county attorney determines that revocation  
13 is warranted, the county attorney shall file a petition to revoke within 7 working days. The court shall hold a  
14 revocation hearing without a jury within 10 working days after the petition has been filed.

15 (iii) If the county attorney does not file a petition to revoke, the youth must be released unless good  
16 cause is shown to further detain the youth.

17 (2) In regard to the conditional release revocation hearing, the youth is entitled to:

18 (a) receive written notice of the alleged violation of the terms and conditions of the youth's conditional  
19 release;

20 (b) receive evidence of the alleged violation;

21 (c) an opportunity to be heard in person or by interactive video transmission and to present witnesses  
22 and evidence;

23 (d) cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

24 (e) be represented by counsel.

25 (3) After the revocation hearing, if the court finds by a preponderance of the evidence presented that  
26 the youth has violated the terms and conditions of the youth's conditional release, the court may revoke the  
27 youth's conditional release and return the youth to a ~~state youth~~-correctional facility or make any other judgment  
28 or disposition that could have been made under the original judgment."

1

2           **Section 13.** Section 41-5-1503, MCA, is amended to read:

3           **"41-5-1503. Medical or psychological evaluation of youth -- urinalysis.** (1) The youth court may  
4 order a youth to receive a medical or psychological evaluation at any time prior to final disposition if the youth  
5 waives the youth's constitutional rights in the manner provided for in 41-5-331. Except as provided in  
6 subsection (2), the youth court shall pay for the cost of the evaluation from its judicial district's allocation  
7 provided for in 41-5-130 or 41-5-2012.

8           (2) The youth court shall determine the financial ability of the youth's parents or guardians to pay the  
9 cost of an evaluation ordered by the court under subsection (1). If they are financially able, the court shall order  
10 the youth's parents or guardians to pay all or part of the cost of the evaluation.

11           (3) Subject to 41-5-1512(1)(o)(i), the youth court may not order an evaluation or placement of a youth  
12 at a ~~state youth~~ correctional facility unless the youth is found to be a delinquent youth or is alleged to have  
13 committed an offense that is listed in 41-5-206.

14           (4) An evaluation of a youth may not be performed at the Montana state hospital.

15           (5) In a proceeding alleging a youth to be a delinquent youth, upon a finding of an offense related to  
16 use of alcohol or illegal drugs, the court may order the youth to undergo urinalysis for the purpose of  
17 determining whether the youth is using alcoholic beverages or illegal drugs."  
18

19           **Section 14.** Section 41-5-1504, MCA, is amended to read:

20           **"41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights --**  
21 **limitation on placement.** (1) A youth who is found to be suffering from a mental disorder, as defined in 53-21-  
22 102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-  
23 119.

24           (2) A youth who, prior to placement or sentencing, is found to be suffering from a mental disorder, as  
25 defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a ~~state~~  
26 ~~youth~~ correctional facility.

27           (3) (a) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who  
28 meets the criteria in 53-21-126(1), after placement in or sentencing to a ~~state youth~~ correctional facility must be



1 moved to a more appropriate placement in response to the youth's mental health needs and consistent with the  
2 disposition alternatives available in 53-21-127.

3 (b) (i) If before removing the youth from the facility the department determines that it will request  
4 funds for the youth's placement from the cost containment pool as provided for in 41-5-132, the department  
5 may ask the cost containment review panel to make recommendations to the department about the most  
6 appropriate placement for the youth. The department shall provide the cost containment review panel with  
7 sufficient information about the youth to allow the panel to make its recommendations, and the department shall  
8 consider the panel's recommendations before making its placement decision.

9 (ii) The department may request at any time from the cost containment review panel recommendations  
10 regarding the youth's placement.

11 (iii) The cost containment review panel shall establish protocols for making recommendations to the  
12 department under this section."  
13

14 **Section 15.** Section 41-5-1512, MCA, is amended to read:

15 **"41-5-1512. Disposition of youth in need of intervention or youth who violate consent**  
16 **adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent  
17 adjustment, the youth court may enter its judgment making one or more of the following dispositions:

18 (a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this  
19 subsection.

20 (b) place the youth in a residence that ensures that the youth is accountable, that provides for  
21 rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider  
22 placement recommendations from the youth placement committee if a committee has been established as  
23 provided for in 41-5-121.

24 (c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility  
25 subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall  
26 determine whether continuation in the youth's own home would be contrary to the welfare of the youth and  
27 whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the  
28 youth's home.

- 1 (d) order restitution for damages that result from the offense for which the youth is disposed by the  
2 youth or by the person who contributed to the delinquency of the youth;
- 3 (e) require the performance of community service;
- 4 (f) require the youth, the youth's parents or guardians, or the persons having legal custody of the  
5 youth to receive counseling services;
- 6 (g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or  
7 the persons having legal custody of the youth;
- 8 (h) require the parents, guardians, or other persons having legal custody of the youth to furnish  
9 services the court may designate;
- 10 (i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth  
11 and the community;
- 12 (j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based on the  
13 testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be  
14 suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);
- 15 (k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;
- 16 (l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation  
17 officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the  
18 department of justice of the confiscation and its duration. The department of justice may not enter the  
19 confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice  
20 when the confiscated driver's license has been returned to the youth. A youth's driver's license may be  
21 confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation  
22 officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's  
23 license before the termination of the time period for which it had been confiscated. The confiscation may not be  
24 used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle  
25 insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for  
26 denying coverage for an accident or other occurrence under an existing policy.
- 27 (m) order the youth to pay a contribution covering all or a part of the costs for adjudication,  
28 disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention,

1 supervision, care, custody, and treatment of the youth, including the costs of counseling;

2 (n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

3 (o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or  
4 facility with the following conditions:

5 (i) The court may not order placement for evaluation at a ~~youth~~ correctional facility of a youth who has  
6 committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated  
7 a consent adjustment.

8 (ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection  
9 (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation  
10 provided for in 41-5-130 or 41-5-2012.

11 (iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part  
12 of the costs of the evaluation if the court determines after an examination of financial ability that the parents or  
13 guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial  
14 responsibility of the judicial district of the court that ordered the evaluation.

15 (p) order placement of a youth in a youth assessment center for up to 10 days; or

16 (q) order the youth to participate in mediation that is appropriate for the offense committed.

17 (2) The court may not order a local government entity to pay for care, treatment, intervention, or  
18 placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a  
19 youth.

20 (3) The court may not order a state government entity to pay for care, treatment, intervention,  
21 placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-  
22 130 without approval from the office of court administrator."

23

24 **Section 16.** Section 41-5-1513, MCA, is amended to read:

25 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent  
26 youth, the youth court may enter its judgment making one or more of the following dispositions:

27 (a) any one or more of the dispositions provided in 41-5-1512;

28 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for

1 placement in a ~~state youth~~ correctional facility or other appropriate program as determined by the department  
2 and recommend to the department that the youth not be released until the youth reaches 18 years of age. ~~The~~  
3 ~~provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b).~~ The  
4 court may not place a youth adjudicated to be a delinquent youth in a ~~state youth~~ correctional facility for an act  
5 that would be a misdemeanor if committed by an adult unless:

6 (i) the youth committed four or more misdemeanors in the prior 12 months;

7 (ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or  
8 a licensed clinical social worker has evaluated the youth and recommends placement in a ~~state youth~~  
9 correctional facility; and

10 (iii) the court finds that the youth will present a danger to the public if the youth is not placed in a ~~state~~  
11 ~~youth~~ correctional facility.

12 (c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the  
13 result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by  
14 an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The  
15 youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

16 (d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-  
17 23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part  
18 5, unless the court finds that:

19 (i) the youth has previously been found to have committed or been adjudicated for a sexual offense,  
20 as defined in 46-23-502; or

21 (ii) registration is necessary for protection of the public and that registration is in the public's best  
22 interest;

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

1 alternative placement.

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

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

6 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-  
7 18-111;

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

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

10 (d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the  
11 youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth  
12 court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed  
13 pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-  
14 205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is  
15 transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the  
16 restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the  
17 supervision of the offender is transferred to the department.

18 (3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if  
19 the youth is under the youth court's jurisdiction or the department if the youth is under the department's  
20 jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the  
21 adjudication, any terms of probation or conditional release, and the facts of the offense for which the youth was  
22 adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the  
23 superintendent.

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

27 (5) The court may not order a state government entity to pay for care, treatment, intervention,  
28 placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-

1 130 without approval from the office of court administrator.

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

5

6 **Section 17.** Section 41-5-1522, MCA, is amended to read:

7 **"41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed  
8 to the department, the department shall determine the appropriate placement and rehabilitation program for the  
9 youth while the youth is in a correctional facility or other program operated by or under contract with the  
10 department after considering the recommendations made by the youth placement committee\_if a committee has  
11 been established as provided for in 41-5-121. Placement is subject to the following limitations:

12 (1) A youth may not be held in a ~~state youth~~ correctional facility for a period of time in excess of the  
13 maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that  
14 brought the youth under the jurisdiction of the youth court.

15 (2) A youth may not be placed in or transferred to a ~~state adult~~ correctional facility or ~~other facility~~  
16 ~~used for the execution of sentences of adults convicted of crimes~~ that does not provide sight and sound  
17 separation from adult offenders as required in 28 CFR 115.14.

18 (3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for  
19 commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent  
20 adjustment in a ~~state youth~~ correctional facility."

21

22 **Section 18.** Section 41-5-1523, MCA, is amended to read:

23 **"41-5-1523. Commitment to department or youth court -- supervision.** (1) A youth placed in a  
24 ~~state youth~~ correctional facility or other facility or program operated by or under contract with the department is  
25 under the control of the department until the youth is discharged, transferred, or placed on conditional release  
26 by the department. Before a youth is placed on conditional release, a conditional release agreement must be  
27 developed and signed as provided in 52-5-126.

28 (2) A youth who is placed on conditional release must be supervised by a juvenile probation officer of

1 the youth court.

2 (3) A youth placed in any private, out-of-home facility by the youth court must be supervised by a  
3 juvenile probation officer of the youth court.

4 (4) Responsibilities of the juvenile probation officer relating to placement of the youth include but are  
5 not limited to:

6 (a) if a youth placement committee has been established as provided for in 41-5-121, submitting  
7 information and documentation necessary for the committee that is making the placement recommendation to  
8 determine an appropriate placement for the youth;

9 (b) securing approval for payment of special education costs from the youth's school district of  
10 residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

11 (c) submitting an application to a facility in which the youth may be placed; and

12 (d) managing the youth's case while in a private, out-of-home facility and upon release until  
13 supervision is terminated by the youth court."  
14

15 **Section 19.** Section 41-5-2002, MCA, is amended to read:

16 **"41-5-2002. Purpose.** The purposes of this part are to:

17 (1) provide an alternate method of funding juvenile out-of-home placements, programs, and services;

18 (2) increase the ability of youth courts to respond to juvenile delinquency through early intervention  
19 and expanded community alternatives;

20 (3) enhance the ability of youth courts to control costs;

21 (4) enhance community safety, hold youth accountable, and promote the competency development of  
22 youth;

23 (5) use local resources for the placement of troubled youth, when appropriate and available;

24 (6) reduce placements in out-of-state residential facilities and programs; and

25 (7) use ~~state-youth~~ correctional facilities when appropriate."  
26

27 **Section 20.** Section 41-5-2005, MCA, is amended to read:

28 **"41-5-2005. Youth placement committee recommendation to youth court judge -- acceptance or**

1 **rejection.** (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-  
2 5-1513, a youth placement committee may be established as provided for in 41-5-121. Except as provided in  
3 subsection (1)(b), the committee, if established, shall submit in writing to the youth court judge its primary and  
4 alternative recommendations for placement of the youth.

5 (b) An alternative recommendation is unnecessary if the committee's recommendation is placement in  
6 a ~~youth~~ correctional facility.

7 (2) The committee shall first consider placement of the youth in a community-based facility or  
8 program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

9 (3) If in-state alternatives for placement of the youth are inappropriate, the committee may  
10 recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-  
11 state services are not appropriate.

12 (4) The primary and alternative recommendations of the youth placement committee must be for  
13 similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if  
14 the recommended placements are dissimilar.

15 (5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the  
16 committee in writing of the reasons for rejecting the recommendations and shall make an appropriate  
17 placement for the youth.

18 (6) The youth court may not order a placement or change of placement that results in a deficit in the  
19 annual allocation established for that district under 41-5-130 without approval from the office of court  
20 administrator.

21 (7) The youth court shall evaluate the cost of the placement or change of placement and ensure that  
22 the placement or change of placement will not overspend the annual allocation provided by the office of court  
23 administrator under 41-5-130."  
24

25 **Section 21.** Section 45-5-214, MCA, is amended to read:

26 **"45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if  
27 the person purposely causes one of the person's bodily fluids to make physical contact with:

28 (a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care



1 provider, as defined in 50-4-504, including a health care provider performing emergency services, while the  
 2 health care provider is acting in the course and scope of the health care provider's profession and occupation:

3 (i) during or after an arrest for a criminal offense;

4 (ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or  
 5 regional jail or detention facility, or a health care facility; or

6 (iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city,  
 7 or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention  
 8 facility, short-term detention center, ~~state youth~~ correctional facility as defined in 41-5-103, health care facility,  
 9 or shelter care facility; or

10 (b) an emergency responder.

11 (2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to  
 12 exceed \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

13 (3) The youth court has jurisdiction of any violation of this section by a minor.

14 (4) As used in this section, the following definitions apply:

15 (a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and  
 16 saliva.

17 (b) "Emergency responder" means a licensed medical services provider, law enforcement officer,  
 18 firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency care provider,  
 19 emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith  
 20 renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

21

22 **Section 22.** Section 45-7-307, MCA, is amended to read:

23 **"45-7-307. Transferring illegal articles -- unauthorized communication.** (1) (a) A person commits  
 24 the offense of transferring illegal articles if the person knowingly or purposely transfers any illegal article or  
 25 weapon to a person subject to official detention or is transferred any illegal article or weapon by a person  
 26 subject to official detention.

27 (b) A person convicted of transferring illegal articles or a weapon shall be:

28 (i) imprisoned in a state prison for a term not to exceed 20 years, if the item transferred is a weapon;

1 (ii) imprisoned in a state prison for a term not to exceed 10 years, if the illegal article is a dangerous  
2 drug, as defined in 50-32-101; or

3 (iii) imprisoned in a state prison for a term not to exceed 13 months or be fined an amount not more  
4 than \$1,500, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a  
5 person incarcerated in a state prison, as defined in 53-30-101~~(3)(c)~~, or be fined an amount not more than \$100  
6 or be imprisoned in the county jail for any term not to exceed 10 days, or both, if the illegal article, other than a  
7 weapon or dangerous drug, is transferred to or from a person incarcerated in a place other than a state prison.

8 (c) Subsection (1)(b)(iii) does not apply unless the offender knew or was given sufficient notice so that  
9 the offender reasonably should have known that the article conveyed was an illegal article.

10 (2) (a) A person commits the offense of unauthorized communication if the person knowingly or  
11 purposely communicates with a person subject to official detention without the consent of the person in charge  
12 of the official detention.

13 (b) A person convicted of the offense of unauthorized communication shall be fined an amount not to  
14 exceed \$100 or imprisoned in the county jail for any term not to exceed 10 days, or both."

15

16 **Section 23.** Section 45-8-318, MCA, is amended to read:

17 **"45-8-318. Possession of deadly weapon by prisoner or youth in facility.** (1) A person commits  
18 the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or  
19 carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver,  
20 slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety  
21 razor, or other deadly weapon while the person is:

22 (a) a person committed to a state prison or incarcerated in a county jail, city jail, or regional jail and is:

23 (i) at a state prison, a state prison farm or ranch, or jail;

24 (ii) being conveyed to or from a place listed in this subsection (1)(a); or

25 (iii) under the custody of prison or jail officials, officers, or employees; or

26 (b) a person in a youth detention facility, secure detention facility, regional detention facility, short-  
27 term detention center, ~~state youth~~ correctional facility, or shelter care facility, as those terms are defined in 41-  
28 5-103, and is at the facility, being conveyed to or from the facility, or under the custody of the facility officials,

1 officers, or employees.

2 (2) A person convicted of the offense of possession of a deadly weapon by a prisoner shall be  
3 punished by imprisonment in the state prison for a term not less than 5 years or more than 15 years, by a fine  
4 of not more than \$50,000, or by both fine and imprisonment.

5 (3) The youth court has jurisdiction of any violation of subsection (1)(b) unless the charge is filed in  
6 district court, in which case the district court has jurisdiction."  
7

8 **Section 24.** Section 46-5-112, MCA, is amended to read:

9 **"46-5-112. Electronic data privacy -- warrant required -- exceptions.** (1) Except as provided in  
10 subsection (2), a government entity may not obtain the stored data of an electronic device without a search  
11 warrant issued by a court upon a finding of probable cause.

12 (2) A government entity may obtain the stored data of an electronic device without a search warrant:

13 (a) with the consent of the owner or authorized user of the electronic device;

14 (b) in accordance with judicially recognized exceptions to warrant requirements;

15 (c) if the owner has voluntarily and publicly disclosed the stored data;

16 (d) if the government entity, in good faith, believes that an emergency involving danger, death, or  
17 serious physical injury to a person requires immediate disclosure of communications relating to the emergency;

18 (e) in order to respond to the user's call for emergency services; or

19 (f) for any electronic devices found within the confines of ~~an adult or youth~~ a correctional facility.

20 (3) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity's ability to  
21 use, maintain, or store information on its own electronic devices or to disseminate information stored on its own  
22 electronic devices.

23 (4) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials  
24 programs implemented by the department of transportation for purposes of complying with federal motor carrier  
25 safety regulations."  
26

27 **Section 25.** Section 46-23-102, MCA, is amended to read:

28 **"46-23-102. Cases of juveniles excluded.** The provisions of parts 1, 2, 3, and 10 of this chapter do

1 not apply to probation in the youth courts or to conditional release from ~~state youth~~ correctional facilities."

2

3 **Section 26.** Section 46-23-201, MCA, is amended to read:

4 **"46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in  
5 subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole  
6 by appropriate order any person who is:

7 (a) confined in a state prison;

8 (b) sentenced to the state prison and confined in a prerelease center;

9 (c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a ~~youth~~ correctional facility  
10 as defined in 41-5-103;

11 (d) sentenced to be committed to the custody of the director of the department of public health and  
12 human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana  
13 developmental center, or the Montana mental health nursing care center.

14 (2) Persons under sentence of death, persons sentenced to the department who have been placed by  
15 the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences  
16 imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

17 (3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
18 served at least one-fourth of the prisoner's full term.

19 (4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
20 served 30 years.

21 (5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is  
22 confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for  
23 any other offense before a hearing panel conducts another hearing or review."

24

25 **Section 27.** Section 50-5-101, MCA, is amended to read:

26 **"50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly  
27 indicates otherwise, the following definitions apply:

28 (1) "Accreditation" means a designation of approval.

1           (2) "Accreditation association for ambulatory health care" means the organization nationally  
2 recognized by that name that surveys outpatient centers for surgical services upon their requests and grants  
3 accreditation status to the outpatient centers for surgical services that it finds meet its standards and  
4 requirements.

5           (3) "Activities of daily living" means tasks usually performed in the course of a normal day in a  
6 resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

7           (4) "Adult day-care center" means a facility, freestanding or connected to another health care facility,  
8 that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living  
9 but that does not provide overnight care.

10           (5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided  
11 in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are  
12 not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full  
13 guardianship of the owner or manager.

14           (b) As used in this subsection (5), the following definitions apply:

15           (i) "Aged person" means a person as defined by department rule as aged.

16           (ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled  
17 adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is  
18 available to meet those basic needs.

19           (iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department  
20 rule as disabled.

21           (iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such  
22 personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine  
23 administration.

24           (B) The term does not include the administration of prescriptive medications.

25           (6) "Affected person" means an applicant for a certificate of need, a health care facility located in the  
26 geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-  
27 party payer who reimburses health care facilities in the area affected by the proposal.

28           (7) "Assisted living facility" means a congregate residential setting that provides or coordinates

1 personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-  
2 related services.

3 (8) "Capital expenditure" means:

4 (a) an expenditure made by or on behalf of a health care facility that, under generally accepted  
5 accounting principles, is not properly chargeable as an expense of operation and maintenance; or

6 (b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any  
7 other property of value had changed hands.

8 (9) "Certificate of need" means a written authorization by the department for a person to proceed with  
9 a proposal subject to 50-5-301.

10 (10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and  
11 prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems  
12 and endangers the health, interpersonal relationships, or economic function of an individual or the public health,  
13 welfare, or safety.

14 (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological,  
15 radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from  
16 the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease  
17 or assessment of a medical condition.

18 (12) "College of American pathologists" means the organization nationally recognized by that name  
19 that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its  
20 standards and requirements.

21 (13) "Commission on accreditation of rehabilitation facilities" means the organization nationally  
22 recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status  
23 to a rehabilitation facility that it finds meets its standards and requirements.

24 (14) "Comparative review" means a joint review of two or more certificate of need applications that are  
25 determined by the department to be competitive in that the granting of a certificate of need to one of the  
26 applicants would substantially prejudice the department's review of the other applications.

27 (15) "Congregate" means the provision of group services designed especially for elderly or disabled  
28 persons who require supportive services and housing.

1 (16) "Construction" means the physical erection of a health care facility and any stage of the physical  
2 erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

3 (17) "Council on accreditation" means the organization nationally recognized by that name that  
4 surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment  
5 facilities, and mental health centers upon their requests and grants accreditation status to programs and  
6 facilities that it finds meet its standards and requirements.

7 (18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C.  
8 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-  
9 5-233.

10 (19) "Department" means the department of public health and human services provided for in 2-15-  
11 2201.

12 (20) "DNV healthcare, inc." means the company nationally recognized by that name that surveys  
13 hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and  
14 requirements.

15 (21) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

16 (22) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney  
17 diseases and includes freestanding hemodialysis units.

18 (23) "Federal acts" means federal statutes for the construction of health care facilities.

19 (24) "Governmental unit" means the state, a state agency, a county, municipality, or political  
20 subdivision of the state, or an agency of a political subdivision.

21 (25) "Healthcare facilities accreditation program" means the program nationally recognized by that  
22 name that surveys health care facilities upon their requests and grants accreditation status to a health care  
23 facility that it finds meets its standards and requirements.

24 (26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency,  
25 private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or  
26 designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any  
27 individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers,  
28 end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals,

1 infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical  
2 assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical  
3 services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

4 (b) The term does not include offices of private physicians, dentists, or other physical or mental health  
5 care workers regulated under Title 37, including licensed addiction counselors.

6 (27) "Home health agency" means a public agency or private organization or subdivision of the agency  
7 or organization that is engaged in providing home health services to individuals in the places where they live.  
8 Home health services must include the services of a licensed registered nurse and at least one other  
9 therapeutic service and may include additional support services.

10 (28) "Home infusion therapy agency" means a health care facility that provides home infusion therapy  
11 services.

12 (29) "Home infusion therapy services" means the preparation, administration, or furnishing of  
13 parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence.  
14 The services include an educational component for the patient, the patient's caregiver, or the patient's family  
15 member.

16 (30) "Hospice" means a coordinated program of home and inpatient health care that provides or  
17 coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family  
18 arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final  
19 stages of illness and dying and that includes formal bereavement programs as an essential component. The  
20 term includes:

21 (a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice  
22 that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

23 (b) a residential hospice facility, which is a facility managed directly by a licensed hospice program  
24 that can house three or more hospice patients.

25 (31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians,  
26 services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals.  
27 Except as otherwise provided by law, services provided must include medical personnel available to provide  
28 emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority.



1 A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days  
2 a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

3 (i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and  
4 tubercular patients; and

5 (ii) specialty hospitals.

6 (b) The term does not include critical access hospitals.

7 (c) The emergency care requirement for a hospital that specializes in providing health services for  
8 psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within  
9 the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by  
10 licensed registered nurses.

11 (32) "Infirmity" means a facility located in a university, college, government institution, or industry for  
12 the treatment of the sick or injured, with the following subdefinitions:

13 (a) an "infirmity--A" provides outpatient and inpatient care;

14 (b) an "infirmity--B" provides outpatient care only.

15 (33) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility  
16 that provides intermediate developmental disability care for two or more persons.

17 (b) The term does not include community homes for persons with developmental disabilities that are  
18 licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-  
19 4-203.

20 (34) "Intermediate developmental disability care" means the provision of intermediate nursing care  
21 services, health-related services, and social services for persons with a developmental disability, as defined in  
22 53-20-102, or for persons with related problems.

23 (35) "Intermediate nursing care" means the provision of nursing care services, health-related services,  
24 and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

25 (36) "Licensed health care professional" means a licensed physician, physician assistant, advanced  
26 practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the  
27 department of labor and industry.

28 (37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,

1 residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or  
2 more individuals or that provides personal care.

3 (b) The term does not include community homes for persons with developmental disabilities licensed  
4 under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care  
5 facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations  
6 providing for transients, students, or individuals who do not require institutional health care; or ~~juvenile and~~  
7 ~~adult~~ correctional facilities operating under the authority of the department of corrections.

8 (38) "Medical assistance facility" means a facility that meets both of the following:

9 (a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that  
10 provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a  
11 longer period is required because transfer to a hospital is precluded because of inclement weather or  
12 emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction  
13 retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse  
14 practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety  
15 of the individual.

16 (b) either is located in a county with fewer than six residents a square mile or is located more than 35  
17 road miles from the nearest hospital.

18 (39) "Mental health center" means a facility providing services for the prevention or diagnosis of mental  
19 illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any  
20 combination of these services.

21 (40) "Nonprofit health care facility" means a health care facility owned or operated by one or more  
22 nonprofit corporations or associations.

23 (41) "Offer" means the representation by a health care facility that it can provide specific health  
24 services.

25 (42) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and  
26 prevention for behavioral problems that endanger the health, interpersonal relationships, or educational  
27 functions of a youth and that:

28 (i) serves either adjudicated or nonadjudicated youth;

1 (ii) charges a fee for its services; and

2 (iii) provides all or part of its services in the outdoors.

3 (b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl  
4 scouts, 4-H clubs, or other similar organizations.

5 (43) "Outpatient center for primary care" means a facility that provides, under the direction of a  
6 licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient  
7 center for surgical services.

8 (44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or  
9 organization that is specifically designed and operated to provide surgical services to patients not requiring  
10 hospitalization and that may include recovery care beds.

11 (45) "Patient" means an individual obtaining services, including skilled nursing care, from a health care  
12 facility.

13 (46) "Person" means an individual, firm, partnership, association, organization, agency, institution,  
14 corporation, trust, estate, or governmental unit, whether organized for profit or not.

15 (47) "Personal care" means the provision of services and care for residents who need some assistance  
16 in performing the activities of daily living.

17 (48) "Practitioner" means an individual licensed by the department of labor and industry who has  
18 assessment, admission, and prescription authority.

19 (49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24  
20 hours by a patient recovering from surgery or other treatment.

21 (50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the  
22 rehabilitation of disabled individuals by providing comprehensive medical evaluations and services,  
23 psychological and social services, or vocational evaluation and training or any combination of these services  
24 and in which the major portion of the services is furnished within the facility.

25 (51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

26 (52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted  
27 living facility, or a retirement home.

28 (53) "Residential psychiatric care" means active psychiatric treatment provided in a residential

1 treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or  
2 behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the  
3 individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's  
4 discharge to less restrictive levels of care at the earliest possible time.

5 (54) "Residential treatment facility" means a facility operated for the primary purpose of providing  
6 residential psychiatric care to individuals under 21 years of age.

7 (55) "Retirement home" means a building or buildings in which separate living accommodations are  
8 rented or leased to individuals who use those accommodations as their primary residence.

9 (56) "Skilled nursing care" means the provision of nursing care services, health-related services, and  
10 social services under the supervision of a licensed registered nurse on a 24-hour basis.

11 (57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis,  
12 care, or treatment of one or more of the following categories:

13 (i) patients with a cardiac condition;

14 (ii) patients with an orthopedic condition;

15 (iii) patients undergoing a surgical procedure; or

16 (iv) patients treated for cancer-related diseases and receiving oncology services.

17 (b) For purposes of this subsection (57), a specialty hospital may provide other services for medical  
18 diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by  
19 law if the care encompasses 35% or less of the hospital services.

20 (c) The term "specialty hospital" does not include:

21 (i) psychiatric hospitals;

22 (ii) rehabilitation hospitals;

23 (iii) children's hospitals;

24 (iv) long-term care hospitals; or

25 (v) critical access hospitals.

26 (58) "State health care facilities plan" means the plan prepared by the department to project the need  
27 for health care facilities within Montana and approved by the governor and a statewide health coordinating  
28 council appointed by the director of the department.

1 (59) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either  
2 acute care or extended skilled nursing care to a patient.

3 (60) "The joint commission" means the organization nationally recognized by that name that surveys  
4 health care facilities upon their requests and grants accreditation status to a health care facility that it finds  
5 meets its standards and requirements."

6

7 **Section 28.** Section 50-5-301, MCA, is amended to read:

8 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted  
9 an application for and is the holder of a certificate of need granted by the department, the person may not  
10 initiate any of the following:

11 (a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure  
12 that exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies,  
13 surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting,  
14 and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with  
15 respect to which an expenditure is made must be included in determining if the expenditure exceeds \$1.5  
16 million.

17 (b) a change in the bed capacity of a health care facility through an increase in the number of beds or  
18 a relocation of beds from one health care facility or site to another, unless:

19 (i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded  
20 down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated  
21 during the 2 years prior to the date on which the letter of intent for the proposal is received;

22 (ii) a letter of intent is submitted to the department; and

23 (iii) the department determines that the proposal will not significantly increase the cost of care provided  
24 or exceed the bed need projected in the state health care facilities plan;

25 (c) the addition of a health service that is offered by or on behalf of a health care facility that was not  
26 offered by or on behalf of the facility within the 12-month period before the month in which the service would be  
27 offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

28 (d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or

1 more of an existing health care facility unless:

2 (i) the person submits the letter of intent required by 50-5-302(2); and

3 (ii) the department finds that the acquisition will not significantly increase the cost of care provided or  
4 increase bed capacity;

5 (e) the construction, development, or other establishment of a health care facility that is being  
6 replaced or that did not previously exist, by any person, including another type of health care facility;

7 (f) the expansion of the geographical service area of a home health agency;

8 (g) the use of hospital beds in excess of five to provide services to patients or residents needing only  
9 skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of  
10 care are defined in 50-5-101;

11 (h) the provision by a hospital of services for home health care, long-term care, or inpatient chemical  
12 dependency treatment; or

13 (i) the construction, development, or other establishment of a facility for ambulatory surgical care  
14 through an outpatient center for surgical services in a county with a population of 20,000 or less according to  
15 the most recent federal census or estimate.

16 (2) For purposes of this part, the following definitions apply:

17 (a) "Health care facility" or "facility" means a nonfederal home health agency, a long-term care facility,  
18 or an inpatient chemical dependency facility. The term does not include:

19 (i) a hospital, except to the extent that a hospital is subject to certificate of need requirements  
20 pursuant to subsection (1)(h);

21 (ii) an office of a private physician, dentist, or other physical or mental health care professionals,  
22 including licensed addiction counselors; or

23 (iii) a rehabilitation facility or an outpatient center for surgical services.

24 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate  
25 nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more  
26 individuals.

27 (ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for  
28 persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe

1 disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels,  
 2 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or  
 3 individuals not requiring institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the  
 4 authority of the department of corrections.

5 (3) This section may not be construed to require a health care facility to obtain a certificate of need for  
 6 a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a  
 7 health care facility."

8

9 **Section 29.** Section 52-2-302, MCA, is amended to read:

10 **"52-2-302. Definitions.** The following definitions apply to this part:

11 (1) (a) "High-risk child with multiagency service needs" means a child under 18 years of age who is  
 12 seriously emotionally disturbed, who is placed or who imminently may be placed in an out-of-home setting, and  
 13 who has a need for collaboration from more than one state agency in order to address the child's needs.

14 (b) The term does not include a child incarcerated in a ~~state youth~~ correctional facility as defined in  
 15 41-5-103.

16 (2) "Least restrictive and most appropriate setting" means a setting in which a high-risk child with  
 17 multiagency service needs is served:

18 (a) within the child's family or community; or

19 (b) outside the child's family or community where the needed services are not available within the  
 20 child's family or community and where the setting is determined to be the most appropriate alternative setting

21 based on:

22 (i) the safety of the child and others;

23 (ii) ethnic and cultural norms;

24 (iii) preservation of the family;

25 (iv) services needed by the child and the family;

26 (v) the geographic proximity to the child's family and community if proximity is important to the child's  
 27 treatment.

28 (3) "Provider" means an agency of state or local government, a person, or a program authorized to

1 provide treatment or services to a high-risk child with multiagency service needs who is suffering from mental,  
2 behavioral, or emotional disorders.

3 (4) "Services" has the meaning as defined in 52-2-202.

4 (5) "System of care" means an integrated service support system that:

5 (a) emphasizes the strengths of the child and the child's family;

6 (b) is comprehensive and individualized; and

7 (c) provides for:

8 (i) culturally competent and developmentally appropriate services in the least restrictive and most  
9 appropriate setting;

10 (ii) full involvement of families and providers as partners;

11 (iii) interagency collaboration; and

12 (iv) unified care and treatment planning at the individual child level.

13 (6) "Wraparound philosophy of care" means a planning process that is designed to address the needs  
14 of a child and the child's family and that:

15 (a) empowers the family to take the lead in making decisions affecting the planning for support  
16 systems and services;

17 (b) reflects the family's values, preferences, culture, strengths, and needs;

18 (c) emphasizes community-based natural and informal support systems;

19 (d) involves collaboration among members of a team that is developed with involvement of the family  
20 and that includes agencies, providers, and others who offer support to the child and family;

21 (e) provides services in the least restrictive and most accessible setting possible; and

22 (f) contains measurable outcomes that are regularly reviewed by the team and adjusted as  
23 necessary."

24

25 **Section 30.** Section 52-5-101, MCA, is amended to read:

26 **"52-5-101. Establishment of ~~state youth~~ correctional facilities -- prohibitions -- definition.** (1)

27 The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain,  
28 and operate correctional facilities to ~~properly~~ provide custody, assessment, care, supervision, treatment,



1 education, rehabilitation, and work and skill development ~~for~~of youth in need of these services who are.~~The~~  
 2 ~~youth must be at least 10 years of age or older and under less than 18 years of age. The facilities include but~~  
 3 ~~are not limited to the Pine Hills youth correctional facility in Miles City.~~

4 (2) A youth alleged or found to be a youth in need of intervention may not be placed in a ~~state youth~~  
 5 ~~correctional facility as defined in 41-5-103.~~

6 (3) When a correctional facility previously used as a secure residential facility for youth is repurposed  
 7 by the department to provide for the custody, treatment, training, and rehabilitation of other correctional  
 8 populations, serving the needs of youth populations must have priority if youth population increases sufficiently  
 9 to justify the department reverting to the previous use of the facility."

10

11 **Section 31.** Section 52-5-108, MCA, is amended to read:

12 **"52-5-108. Medical examination before admission -- records required to accompany youth**  
 13 **committed.** (1) Before a youth is admitted for any purpose or for any length of time to the Pine Hills ~~youth~~  
 14 ~~correctional facility or another facility under an order of commitment to the department of corrections, the youth~~  
 15 ~~must be examined by a licensed physician assistant, by an advanced practice registered nurse, or by a~~  
 16 ~~licensed physician. A youth committed to the Pine Hills youth correctional facility or the department must be~~  
 17 ~~accompanied by the order of commitment, a medical examination report, an adequate social history, and any~~  
 18 ~~school records.~~

19 (2) The medical examination required under this section must be a current, complete physical  
 20 examination of the youth."

21

22 **Section 32.** Section 52-5-109, MCA, is amended to read:

23 **"52-5-109. Transportation costs -- arrangement for transportation.** (1) Prior to adjudication:

24 (a) for a youth placed in a facility, other than a ~~state youth~~ correctional facility or a detention facility,  
 25 the judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the  
 26 youth to the facility and for any other transportation costs incurred while the youth is in the facility. The district  
 27 shall pay these costs from its annual allocation provided for in 41-5-130.

28 (b) for a youth detained in a detention facility, the county of the youth court to which the youth has

1 been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs  
2 while the youth is in the facility.

3 (2) After adjudication:

4 (a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth  
5 court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility  
6 from its annual allocation established under 41-5-130;

7 (b) for a youth committed to the department of corrections for placement in an in-state ~~youth~~  
8 correctional facility or returned to the department for violation of the terms and conditions of the youth's  
9 conditional release agreement, the county of the youth court in which the youth was adjudicated shall pay the  
10 cost for transporting the youth to the facility. The department shall pay the cost for transporting the youth after  
11 the youth is released from the facility or provide other arrangements for transporting the youth.

12 (c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department of  
13 corrections shall pay the cost for transporting the youth to the facility and the cost for transporting the youth  
14 after the youth is released from the facility.

15 (3) The youth court probation office shall arrange for all transportation to and from an out-of-home  
16 placement except when the department of corrections is responsible for transportation costs as provided for in  
17 subsections (2)(b) and (2)(c)."

18

19 **Section 33.** Section 52-5-110, MCA, is amended to read:

20 **"52-5-110. Transfer of child to other facility or institution.** The department of corrections, upon  
21 recommendation of the superintendent of a facility, may transfer a child resident in one of its ~~youth~~ correctional  
22 facilities to any other facility or institution under the jurisdiction and control of the department or under contract  
23 to the department."

24

25 **Section 34.** Section 52-5-111, MCA, is amended to read:

26 **"52-5-111. Commutation of sentence to state prison facility and transfer of prisoner to youth**  
27 **correctional facility.** (1) Upon the application of a person who has not attained 18 years of age who has been  
28 sentenced to a state prison facility or upon the application of the youth's parents or guardian, the governor may,

1 after consulting with the department of corrections and with the approval of the board of pardons and parole,  
 2 commute the sentence by committing the person ~~who to the department of corrections for placement in a~~  
 3 correctional facility if the person may benefit from programs offered at a youth-correctional facility. ~~to the~~  
 4 ~~department of corrections.~~ Except as provided in subsection (2), the commutation continues in effect until the  
 5 youth is 18 years of age or until sooner placed or discharged.

6 (2) If the youth's behavior after being committed to the department of corrections as provided in  
 7 subsection (1) indicates that the youth is not a proper person to reside at one of the youth-correctional facilities,  
 8 the governor, after consulting with the department of corrections and with the approval of the board of pardons  
 9 and parole, may revoke the commutation and return the youth to a state prison facility to serve out the youth's  
 10 unexpired term, and the time spent by the youth at one of the youth-correctional facilities or while a refugee  
 11 from one of the youth-correctional facilities ~~is not considered as a part of~~ may not be credited against the  
 12 youth's original sentence.

13 (3) ~~Upon~~ Independent of the commutation of sentence procedures provided for in subsections (1) and  
 14 (2), on recommendation of the warden and with the approval of the department of corrections, a person under  
 15 18 years of age who has been sentenced to a state prison facility and who may benefit from programs offered  
 16 at a youth-correctional facility may be transferred to any youth-correctional facility under the jurisdiction and  
 17 control of the department of corrections.

18 (4) If the youth's behavior after transfer to a youth-correctional facility indicates that the youth might be  
 19 released on parole or that the youth's sentence might be commuted and the youth be discharged from custody,  
 20 the superintendent of the facility, with the approval of the department of corrections, may make an appropriate  
 21 recommendation to the board of pardons and parole and the governor, who may in their discretion parole the  
 22 person or commute the youth's sentence.

23 (5) If the youth's behavior after transfer to a youth correctional facility indicates that the youth is not a  
 24 proper person to reside in the facility, upon recommendation of the superintendent and with the approval of the  
 25 department of corrections, the youth must be returned to a state prison facility to serve out the unexpired term."  
 26

27 **Section 35.** Section 52-5-112, MCA, is amended to read:

28 **"52-5-112. University aid to residents of schools.** The department of corrections may, on the

1 recommendation of the superintendent, authorize a resident of a ~~state-youth~~ correctional facility who has  
2 completed high school and who is otherwise eligible to receive up to \$800 per year toward the resident's  
3 expenses incurred in attending a unit of the Montana university system. The money may be used for  
4 transportation, clothing, books, board, and room and must be paid in the same manner as other expenses of  
5 the school. The board of regents of higher education may waive fees and tuition for these residents pursuant to  
6 20-25-421. No more than eight residents of each ~~state-youth~~ correctional facility may receive these benefits  
7 each year. The department shall notify the board of regents before August 1 of each year of the residents that it  
8 has designated to receive the benefits for the next school year."

9

10 **Section 36.** Section 52-5-113, MCA, is amended to read:

11 **"52-5-113. Publication of information to facilitate return of youth leaving a ~~state-youth~~**  
12 **correctional facility or program without permission.** The department may publish the name and picture of  
13 and the offense and other information relating to a youth who has left a ~~state-youth~~ correctional facility or  
14 program operated by the department or who is committed to the department and who presents a threat to  
15 public safety if the publication is determined by the department to be necessary to facilitate the youth's return  
16 and to protect the public."

17

18 **Section 37.** Section 52-5-114, MCA, is amended to read:

19 **"52-5-114. Penalty for aiding resident in leaving or not returning to ~~youth~~ correctional facility.**

20 (1) A person is guilty of an offense if the person purposely or knowingly:

- 21 (a) permits or assists a resident of a ~~youth~~ correctional facility to leave a facility without permission;
- 22 (b) permits or assists a resident's failure to return to a ~~youth~~ correctional facility from which the  
23 resident had permission to leave;
- 24 (c) furnishes or attempts to furnish to a resident a tool, weapon, or other article with the intent of  
25 aiding the resident to leave without permission or to not return; or
- 26 (d) harbors or conceals a resident who has left without permission.

27 (2) Upon conviction of a violation of subsection (1), a person shall be punished by imprisonment for a  
28 term of not less than 6 months or more than 2 years or by a fine not exceeding \$1,000, or both."

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**Section 38.** Section 52-5-120, MCA, is amended to read:

**"52-5-120. Youth industries programs.** The department of corrections may:

(1) establish youth industries programs in state ~~youth~~ correctional facilities that:

(a) assist in the training and rehabilitation of residents who are youth at ~~state youth~~ correctional facilities; and

(b) provide the production or manufacture of products and the rendering of services that may be needed by:

(i) a department or agency of the state of Montana or a unit of local government;

(ii) an agency of the federal government; or

(iii) an office or agency of another state or a political subdivision of another state;

(2) contract with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(3) fix the purchase price for goods and services available under the industries program established in subsection (1)."

**Section 39.** Section 52-5-121, MCA, is amended to read:

**"52-5-121. Rulemaking authority.** The department of corrections may adopt rules necessary for administration of industries programs authorized in 52-5-120. Rules adopted by the department may include rules regarding:

(1) requirements for participation of youth in industries programs;

(2) the type of training and experience to be provided to youth under these programs;

(3) the type of goods and services to be sold under the industries programs;

(4) contracts with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(5) payment of wages to youth working in industries programs."

**Section 40.** Section 52-5-126, MCA, is amended to read:

1           **"52-5-126. Conditional release agreement.** (1) At least 30 days before a youth is released by the  
2 department of corrections from a ~~state youth~~ correctional facility to the supervision, custody, and control of the  
3 youth court, the department, youth, and juvenile probation officer assigned to the youth shall develop a  
4 conditional release agreement for the youth.

5           (2) At least 14 days before the youth is released, the department, youth, and juvenile probation officer  
6 shall finalize and sign the conditional release agreement. The agreement must contain a statement advising the  
7 youth of the youth's rights under 41-5-1430 and the terms and conditions that may result in a revocation of the  
8 youth's conditional release.

9           (3) A conditional release agreement for a youth released from a ~~state youth~~ correctional facility for  
10 commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, must remain in effect until the  
11 youth court no longer has custody of the youth."  
12

13           **Section 41.** Section 52-5-128, MCA, is amended to read:

14           **"52-5-128. Detention of youth who violates conditional release or escapes from facility or**  
15 **program.** (1) A juvenile probation officer may detain a youth who allegedly has violated the terms and  
16 conditions of the youth's conditional release agreement. A law enforcement officer of the state or a county or a  
17 city shall detain a youth who has allegedly violated the terms and conditions of the youth's conditional release  
18 agreement upon receipt of a warrant to detain the youth.

19           (2) The department of corrections may detain a youth who has escaped from a ~~state youth~~  
20 correctional facility or program operated by or under contract with the department. A law enforcement officer of  
21 the state or a county or a city shall detain a youth upon notice in writing to the officer by the department that the  
22 youth has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the  
23 department."  
24

25           **Section 42.** Section 53-1-104, MCA, is amended to read:

26           **"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following  
27 institutions, correctional facilities, or other facilities having the charge or custody of a person convicted of arson  
28 or of a person acquitted of arson on the ground of mental disease or disorder shall give written notification to

1 the department of justice when the person is admitted or released by it:

- 2 (a) the Montana state hospital;
- 3 (b) a state prison;
- 4 (c) a Montana ~~youth~~-correctional facility housing youth; or
- 5 (d) a county or city detention facility.

6 (2) The notification must disclose:

- 7 (a) the name of the person;
- 8 (b) where the person is or will be located; and
- 9 (c) the type of fire the person was involved in."

10

11 **Section 43.** Section 53-1-105, MCA, is amended to read:

12 **"53-1-105. Disposition of contraband in correctional institution.** (1) Cash possessed in excess of  
 13 the amount allowed by the policy of an ~~adult or youth~~-correctional institution or obtained in violation of a policy  
 14 may be confiscated and deposited in an inmate or resident welfare fund to be used for the intended purpose of  
 15 that fund.

16 (2) The department of corrections shall adopt policies for the disposition of other contraband  
 17 confiscated from inmates or residents in ~~adult or youth~~-correctional institutions. Receipts from the sale of  
 18 contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that  
 19 fund."

20

21 **Section 44.** Section 53-1-107, MCA, is amended to read:

22 **"53-1-107. (Temporary) Inmate financial transactions and trust account system.** (1) An inmate of  
 23 a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall  
 24 use the prison inmate trust account system administered by the department of corrections to send money out of  
 25 or receive money in the facility unless the department grants the inmate an exception. The department may  
 26 charge an inmate a minimum fee, not to exceed \$2 each month, to administer the inmate's account.

27 (2) The department may, consistent with administrative rules adopted by the department, use a  
 28 portion of the funds in an inmate's account to:

- 1 (a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;
- 2 (b) satisfy court-ordered child support;
- 3 (c) satisfy court-ordered fines, fees, or costs;
- 4 (d) pay for the inmate's medical and dental expenses and costs of incarceration; and
- 5 (e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a
- 6 state prison and pay reasonable claims by a debt collection or financial institution.
- 7 (3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following
- 8 order:
- 9 (i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;
- 10 (ii) to the crime victims compensation and assistance program in the department of justice for deposit
- 11 in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided
- 12 pursuant to Title 53, chapter 9, part 1;
- 13 (iii) to any other government agency that has compensated the victim for the victim's pecuniary loss;
- 14 and
- 15 (iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.
- 16 (b) If there is a balance of money in the inmate's account after payments under subsection (2), the
- 17 department may allow the balance to accumulate in a savings subaccount for the inmate.
- 18 (4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an
- 19 inmate worker is required to save in a savings subaccount.
- 20 (b) The rules must include that, upon release of an inmate from a state prison, the department shall
- 21 dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved
- 22 recipients, including service providers.
- 23 (c) The department shall adopt rules to exempt the following inmates from participation in the
- 24 mandatory inmate savings program under subsection (4)(a):
- 25 (i) inmates who are of advanced age;
- 26 (ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;
- 27 (iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an
- 28 advanced age upon their discharge date;



1 (iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an  
2 advanced age at eligibility; and

3 (v) inmates who are not eligible for parole and are serving life sentences.

4 (5) The department shall adopt rules establishing the prison inmate trust account system and criteria  
5 for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that  
6 ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts  
7 within or outside the state prison.

8 (6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay  
9 the department for reasonable costs incurred by the department for the inmate's medical and dental expenses.  
10 The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment,  
11 and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate  
12 from sources outside the state prison that is not deposited in the account provided for in subsection (1).

13 (Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

14 **53-1-107. (Effective July 1, 2021) Inmate financial transactions and trust account system.** (1) An  
15 inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and  
16 (4), shall use the prison inmate trust account system administered by the department of corrections to send  
17 money out of or receive money in the facility unless the department grants the inmate an exception. The  
18 department may charge an inmate a minimum fee, not to exceed \$2 each month, to administer the inmate's  
19 account.

20 (2) The department may, consistent with administrative rules adopted by the department, use a  
21 portion of the funds in an inmate's account to:

- 22 (a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;  
23 (b) satisfy court-ordered child support;  
24 (c) satisfy court-ordered fines, fees, or costs;  
25 (d) pay for the inmate's medical and dental expenses and costs of incarceration; and  
26 (e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a  
27 state prison and pay reasonable claims by a debt collection or financial institution.

28 (3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following

1 order:

2 (i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

3 (ii) to the crime victims compensation and assistance program in the department of justice for deposit  
4 in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to  
5 Title 53, chapter 9, part 1;

6 (iii) to any other government agency that has compensated the victim for the victim's pecuniary loss;

7 and

8 (iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

9 (b) If there is a balance of money in the inmate's account after payments under subsection (2), the  
10 department may allow the balance to accumulate in a savings subaccount for the inmate.

11 (4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an  
12 inmate worker is required to save in a savings subaccount.

13 (b) The rules must include that, upon release of an inmate from a state prison, the department shall  
14 dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved  
15 recipients, including service providers.

16 (c) The department shall adopt rules to exempt the following inmates from participation in the  
17 mandatory inmate savings program under subsection (4)(a):

18 (i) inmates who are of advanced age;

19 (ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

20 (iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an  
21 advanced age upon their discharge date;

22 (iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an  
23 advanced age at eligibility; and

24 (v) inmates who are not eligible for parole and are serving life sentences.

25 (5) The department shall adopt rules establishing the prison inmate trust account system and criteria  
26 for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that  
27 ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts  
28 within or outside the state prison.

1           (6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay  
 2 the department for reasonable costs incurred by the department for the inmate's medical and dental expenses.  
 3 The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment,  
 4 and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate  
 5 from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

6

7           **Section 45.** Section 53-1-109, MCA, is amended to read:

8           **"53-1-109. Facility resident and prison inmate welfare account.** (1) There is an account in the  
 9 state special revenue fund. The net proceeds from Pine Hills ~~youth~~ correctional facility resident and state prison  
 10 inmate canteen purchases and resident or inmate telephone use, cash proceeds from the disposition of  
 11 confiscated contraband, and any public money held for the needs of residents or inmates and their families and  
 12 not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107  
 13 may not be deposited in the account established in this subsection.

14           (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of  
 15 corrections, which may allocate the money referred to in subsection (1) to the Pine Hills ~~youth~~ correctional  
 16 facility and state prisons in proportion to the amount that each facility contributed to the fund. The  
 17 superintendent of the Pine Hills ~~youth~~ correctional facility and the administrator of each state prison shall  
 18 consult with the residents and inmates in the superintendent's or administrator's respective facility about the  
 19 use of the money allocated to the Pine Hills ~~youth~~ correctional facility or the state prison and may use the  
 20 money for the needs of that facility's residents or inmates and their families.

21           (3) For purposes of this section, "state prison" has the meaning provided in ~~53-30-101(3)(c)(i) through~~  
 22 ~~(3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4)."

23

24           **Section 46.** Section 53-1-201, MCA, is amended to read:

25           **"53-1-201. Purpose of department of corrections.** The department of corrections shall use at  
 26 maximum efficiency the resources of state government in a coordinated effort to:

27           (1) develop and maintain comprehensive services and programs in the field of adult and youth  
 28 corrections; and

1 (2) provide for the custody, assessment, care, supervision, treatment, education, rehabilitation, and  
 2 work and skill development of ~~youth alleged to be youth in need of intervention or~~ formerly adjudicated  
 3 delinquent youth who are referred or committed to the department."  
 4

5 **Section 47.** Section 53-1-202, MCA, is amended to read:

6 **"53-1-202. Department of corrections.** (1) Adult and youth correctional services are included in the  
 7 department of corrections to carry out the purposes of the department.

8 (2) Adult corrections services consist of the following correctional facilities or programs:

9 (a) ~~the prisons listed~~ a state prison as defined in 53-30-101;

10 (b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult  
 11 felons who meet the criteria developed by the department for placement:

12 (i) in prerelease centers;

13 (ii) under intensive supervision;

14 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

15 (iv) in other appropriate programs; and

16 (c) the Montana correctional enterprises prison industries training program authorized by 53-30-131.

17 (3) Youth correctional services consist of the following correctional facilities or programs to provide for  
 18 custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of  
 19 intervention pursuant to Title 52, chapter 5:

20 (a) Pine Hills ~~youth~~ correctional facility or other ~~state youth~~ correctional facility as defined in 41-5-103;

21 and

22 (b) any other facility or program under contract with the department that provides custody and  
 23 services for delinquent youth.

24 ~~(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without~~  
 25 ~~the consent of the legislature.~~

26 (4) A STATE INSTITUTION OR CORRECTIONAL FACILITY MAY NOT BE MOVED, DISCONTINUED, OR ABANDONED  
 27 WITHOUT THE CONSENT OF THE LEGISLATURE."

28

1           **Section 48.** Section 53-1-203, MCA, is amended to read:

2           **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections  
3 shall:

4           (a) subject to subsection (6), adopt rules necessary:

5           (i) for the siting, establishment, and expansion of prerelease centers;

6           (ii) for the expansion of treatment facilities or programs previously established by contract through a  
7 competitive procurement process;

8           (iii) for the establishment and maintenance of residential methamphetamine treatment programs; and

9           (iv) for the admission, custody, transfer, and release of persons in department programs except as  
10 otherwise provided by law;

11           (b) subject to the functions of the department of administration, lease or purchase lands for use by  
12 correctional facilities and classify those lands to determine those that may be most profitably used for  
13 agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that  
14 can be grown or produced on the lands and the relative value of agricultural programs in the treatment or  
15 rehabilitation of the persons confined in correctional facilities;

16           (c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community  
17 Corrections Act, with community corrections facilities or programs or local or tribal governments to establish  
18 and maintain:

19           (i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching  
20 parole eligibility or discharge for release into the community, providing an alternative placement for offenders  
21 who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-  
22 18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate  
23 security. The centers must be operated in coordination with other department correctional programs. This  
24 subsection does not affect the department's authority to operate and maintain prerelease centers.

25           (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as  
26 provided for in 46-18-201 or 46-18-202 and any other sections relating to alternative sentences for persons  
27 convicted of possession of methamphetamine. The department shall issue a request for proposals using a  
28 competitive process and shall follow the applicable contract and procurement procedures in Title 18.

1 (d) use the staff and services of other state agencies and units of the Montana university system,  
2 within their respective statutory functions, to carry out its functions under this title;

3 (e) propose programs to the legislature to meet the projected long-range needs of corrections,  
4 including programs and facilities for the custody, supervision, treatment, parole, and skill development of  
5 persons placed in correctional facilities or programs;

6 (f) encourage the establishment of programs at the local and state level for the rehabilitation and  
7 education of felony offenders;

8 (g) encourage efforts within the department and at the local level that would develop housing options  
9 and resource materials related to housing for individuals who are released from the Montana state prison or  
10 community corrections programs;

11 (h) maintain data on the number of individuals who are discharged from the adult correction services  
12 listed in 53-1-202 into a homeless shelter or a homeless situation;

13 (i) administer all state and federal funds allocated to the department for delinquent youth, as defined  
14 in 41-5-103;

15 (j) collect and disseminate information relating to youth who are committed to the department for  
16 placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

17 (k) maintain adequate data on placements that it funds in order to keep the legislature properly  
18 informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

19 (l) provide funding for youth who are committed to the department for placement in a ~~state youth~~  
20 correctional facility as defined in 41-5-103;

21 (m) administer ~~youth~~ correctional facilities as defined in 41-5-103; and

22 (n) use to maximum efficiency the resources of state government in a coordinated effort to:

23 (i) provide for delinquent youth committed to the department; and

24 (ii) coordinate and apply the principles of modern correctional administration to the facilities and  
25 programs administered by the department.

26 (2) The department may contract with private, nonprofit or for-profit Montana corporations to establish  
27 and maintain a residential sexual offender treatment program. If the department intends to contract for that  
28 purpose, the department shall adopt rules for the establishment and maintenance of that program.

1           (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a  
2 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit  
3 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a  
4 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit  
5 committee. The legislative audit division shall review the contract and make recommendations or comments to  
6 the legislative audit committee. The committee may make recommendations or comments to the department.  
7 The department shall respond to the committee, accepting or rejecting the committee recommendations or  
8 comments prior to entering into the contract.

9           (4) The department of corrections may enter into contracts with nonprofit corporations or associations  
10 or private organizations to provide substitute care for delinquent youth in state youth correctional facilities.

11           (5) The department may contract with Montana corporations to operate a day reporting program as an  
12 alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-  
13 1015. The department shall adopt by rule the requirements for a day reporting program, including but not  
14 limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of  
15 compliance with any conditions of probation, such as drug testing.

16           (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the  
17 statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment,  
18 and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,  
19 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited  
20 at any location without community support. The prerelease siting, establishment, and expansion must be  
21 subject to, and the rules must include, a reasonable mechanism for a determination of community support for or  
22 objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting,  
23 establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

24           (7) The department shall ensure that risk and needs assessments drive the department's supervision  
25 and correctional practices, including integrating assessment results into supervision contact standards and  
26 case management. The department shall regularly validate its risk assessment tool."

27

28           **Section 49.** Section 53-1-207, MCA, is amended to read:

1           **"53-1-207. Authorization of inmate labor for designated construction projects -- exemptions. (1)**

2     The department of corrections is authorized to use inmate labor for the purpose of construction projects at ~~the~~  
3     ~~Montana~~ a state prison that are authorized by the legislature.

4           (2) The department of administration shall provide for construction of the projects authorized by this  
5     section, which are to be built by the lowest responsible bidder, with contract specifications to allow the use of  
6     inmate labor. The percentage of inmate labor must be determined prior to the advertising for bid of the projects  
7     through negotiations among the department of corrections, the department of administration, representatives of  
8     construction industry employers, and representatives of the building trades."

9

10           **Section 50.** Section 53-30-101, MCA, is amended to read:

11           **"53-30-101. ~~Location and function of prisons -- definitions~~ State prison -- definition. (1)** The

12     ~~correctional facility at Deer Lodge is the Montana state prison, and its primary function is to provide for the~~  
13     ~~custody, treatment, training, and rehabilitation of adult male criminal offenders.~~

14           ~~(2) The correctional facility located in Billings is the Montana women's prison, and its primary function~~  
15     ~~is to provide for the custody, treatment, training, and rehabilitation of adult female criminal offenders.~~

16           ~~(3) As used in this title, unless the context indicates otherwise, the following definitions apply "state~~  
17     ~~prison" means:~~

18           ~~(a) "Montana state prison" means the correctional facility located at Deer Lodge.~~

19           ~~(b) "Montana women's prison" or "women's prison" means the correctional facility located at Billings.~~

20           ~~(c) "State prison" means:~~

21           ~~(i) the Montana state prison;~~

22           ~~(ii) the Montana women's prison;~~

23           ~~(1) a state penal or correctional institution whose primary function is to provide for the custody,~~  
24     ~~treatment, training, and rehabilitation of adult criminal offenders;~~

25           ~~(iii)(2) a state penal or correctional facility portion of a Montana regional correctional facility;~~

26           ~~(iv)(3) a detention center, a state penal facility, or a correctional facility in another jurisdiction detaining~~  
27     ~~Montana inmates from Montana pursuant to 53-30-106;~~

28           ~~(v)(4) a private correctional facility or penal facility licensed by the department of corrections or a~~



1 private correctional facility or penal facility portion of a Montana regional correctional facility licensed by the  
 2 department of corrections; or

3 ~~(vi)~~(5) a combination of the facilities listed in this ~~subsection (3)(c)~~ section."

4

5 **Section 51.** Section 53-30-102, MCA, is amended to read:

6 **"53-30-102. Qualifications of state prison warden of ~~state prison and warden of women's~~**

7 **prison.** The warden of the ~~Montana~~ a state prison and the warden of the women's prison must be persons

8 trained through education and experience in directing a custody, treatment, training, or rehabilitation, ~~or~~

9 ~~custodial~~ program in a penal or correctional institution."

10

11 **Section 52.** Section 53-30-141, MCA, is amended to read:

12 **"53-30-141. Extension of limits of confinement.** (1) The department of corrections may extend the

13 limits of confinement of the ~~Montana~~ state prison in Deer Lodge for purposes of housing outside the prison

14 fence inmates who:

15 (a) are employed in ranch or agricultural industry programs; and

16 (b) have demonstrated sufficient reliability and trustworthiness.

17 (2) Housing units outside the confines of the prison fence may be created by renovation of existing

18 buildings or by the erection of modular-type units and associated facilities on the prison ranch.

19 (3) For the purpose of expediting the acquisition and construction of housing units authorized in

20 subsection (2) the department of administration may exempt the project from provisions of Montana law relating

21 to the employment of architects, advertising, labor, and wages. The department of administration need not

22 comply with any state bidding requirements that would preclude a sole source purchase."

23

24 **Section 53.** Section 53-30-702, MCA, is amended to read:

25 **"53-30-702. Definitions.** As used in this part, the following definitions apply:

26 (1) "Administrative segregation" means a nonpunitive housing status for inmates whose continued

27 presence in the general population may pose a serious threat to life, property, self, staff, other inmates, or the

28 facility's security or orderly operation.

1 (2) "Administrator" means the official, regardless of local title, who is ultimately responsible for the  
2 operation and management of a division, facility, or program.

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

4 (4) "Disability" means a physical or mental impairment that substantially limits one or more of a  
5 person's major life activities, a person who has a record of such an impairment, or a person who is regarded as  
6 having such an impairment.

7 (5) "Disciplinary detention" means a form of separation from the general population in which an  
8 inmate who has committed a serious violation of conduct regulations is confined to an individual cell by a  
9 disciplinary committee or other authorized group for short periods of time.

10 (6) "Facility" means a state prison as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v) 53-  
11 30-101(1), (2), and (4) or a ~~youth~~ correctional facility pursuant to 52-5-101.

12 (7) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that  
13 interferes seriously with an individual's ability to function adequately except with supportive treatment or  
14 services. The individual also must:

15 (a) currently have or have had within the past year a diagnosed mental disorder; and

16 (b) currently exhibit significant signs and symptoms of a mental disorder.

17 (8) "Postpartum" means the first 6 weeks after delivery.

18 (9) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely  
19 and securely control high-risk or at-risk inmates.

20 (10) "Protective custody" means a form of separation from the general population for an inmate who  
21 requests or requires protection from other inmates for reasons of health or safety.

22 (11) "Qualified mental health professional" includes psychiatrists, psychologists, psychiatric social  
23 workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education,  
24 credentials, and experience, are permitted by law to evaluate and care for the mental health needs of patients.

25 (12) "Restrictive housing" means a placement that requires an inmate to be confined to a cell for at  
26 least 22 hours a day for the safe and secure operation of the facility. The term includes administrative  
27 segregation, protective custody, and disciplinary detention.

28 (13) "Step-down program" means an individualized program that includes a system of review and

1 establishes criteria to prepare an inmate for transition to the general population or the community and that  
2 involves a coordinated, multidisciplinary team approach that includes mental health, case management, and  
3 security practitioners.

4 (14) "Temporary confinement" has the same meaning as "prehearing confinement" as defined in this  
5 section."

6 - END -