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As of: September 4, 2008 (10:49am)

LC0306

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising the youth court act; defining terms; revising mental health evaluation and court-ordered placement of justice-involved youth who may have a mental illness or other disabling condition; requiring a mental health evaluation before sentencing a youth for placement in a youth correctional facility; prohibiting any youth from being placed in a state youth correctional facility for the purposes of an evaluation; and amending sections 41-5-103, 41-5-132, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 52-5-126, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-103, MCA, is amended to read:

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

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

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

(3) "Appropriate professional" means:

(a) for a mental health evaluation and determination, a

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

professional person as defined in 53-21-102(16); and

(b) for an evaluation to determine if a youth has a developmental disability, a developmental disabilities professional, as defined in 53-20-201(7); and

(c) for an evaluation to determine if a youth has a traumatic brain injury or other disability, a licensed psychologist, a licensed physician, or a licensed advanced practice registered nurse.

~~(3)~~(4) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

~~(4)~~(5) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

~~(5)~~(6) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.

~~(6)~~(7) "Cost containment pool" means funds allocated by the department under 41-5-132 for distribution by the cost containment review panel.

~~(7)~~(8) "Cost containment review panel" means the panel established in 41-5-131.

~~(8)~~(9) "Court", when used without further qualification, means the youth court of the district court.

~~(9)~~(10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

~~(10)~~ ~~(a)~~ (11) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

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

~~(11)~~ (12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

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

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation.

~~(12)~~ (13) "Department" means the department of corrections provided for in 2-15-2301.

~~(13)~~ ~~(a)~~ (14) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1) (b) or who are under parole supervision.

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

~~(14)~~ (15) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

before final disposition of the youth's case;

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

or

(c) violation of a youth parole agreement.

~~(15)~~(16) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(17) "Disabling condition" means:

(a) a psychiatric impairment with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care in a residential treatment facility, as defined at 50-5-101(52), or a hospital, as defined in 50-5-101(28), to adequately treat or manage the youth's condition.

(b) a developmental disability of such severity that the youth is incapable of benefiting from the program offered in the state youth correctional setting.

(c) a severe traumatic brain injury, or other disability that renders the youth incapable of benefiting from the program offered in the state youth correctional setting.

~~(16)~~(18) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

~~(17)~~(19) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

~~(18)~~(20) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

~~(19)~~~~(a)~~ (21) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

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

~~(20)~~(22) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

~~(21)~~(23) "Guardian" means an adult:

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

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

~~(22)~~(24) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in a semester or absences without prior written approval of a parent or a guardian.

~~(23)~~~~(a)~~ (25) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

~~(24)~~ ~~(a)~~ (26) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

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

~~(25)~~ ~~(a)~~ (27) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

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

~~(26)~~ (28) "Judge", when used without further qualification, means the judge of the youth court.

~~(27)~~ (29) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

~~(28)~~ (30) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth

covered by this chapter.

~~(29)~~ ~~(a)~~ (31) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

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

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

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

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

~~(30)~~ (32) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

~~(31)~~ ~~(a)~~ (33) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

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

~~(32)~~ ~~(a)~~ (34) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

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

(ii) the putative father of an illegitimate youth unless the

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

putative father's paternity is established by an adjudication or by other clear and convincing proof.

~~(33)~~(35) "Probable cause hearing" means the hearing provided for in 41-5-332.

~~(34)~~(36) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

~~(35)~~(37) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

~~(36)~~(38) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

~~(37)~~(39) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

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

~~(38)~~(40) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

offense against property, or an offense involving dangerous drugs.

~~(39)~~(41) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

~~(40)~~(42) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

~~(41)~~(43) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

~~(42)~~(44) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.

~~(43)~~(45) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

(46) "Treatment facility" means a hospital, facility, or center licensed or certified by the department of public health and human services or by the appropriate licensing or certification authority in another state that provides treatment and care to youth with a disabling condition. A correctional institution or detention center is not a treatment facility.

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

~~(44)~~(47) "Victim" means:

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

(b) an adult relative of the victim, as defined in subsection ~~(44)~~(a)~~(47)~~ (a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

~~(45)~~(48) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(46)~~(49) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

~~(47)~~(50) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

~~(48)~~(51) "Youth care facility" has the meaning provided in 52-2-602.

~~(49)~~(52) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge, probation officers, and assessment officers.

~~(50)~~(53) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

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

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

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

~~(51)~~(54) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

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

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

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

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

{*Internal References to 41-5-103:*

x7-6-501	x7-6-501	x20-4-134	x20-4-502
x20-5-321	x20-9-327	x23-5-158	x41-5-1416
x41-5-1416	x41-5-1908	x44-4-401	x45-5-501
x45-5-624	x45-8-318	x52-2-602	x52-2-612

x52-5-101

x53-1-203}

Section 2. Section 41-5-132, MCA, is amended to read:

"41-5-132. Cost containment pool -- allocation of appropriated funds -- authorization of allocation from pool -- transfer of unexpended funds. (1) (a) The department shall establish a cost containment pool. After considering the cost containment review panel's recommendation as provided for in subsection (1)(b), the department shall allocate to the cost containment pool at the beginning of each fiscal year not less than \$1 million from the funds appropriated for juvenile placements.

(b) The cost containment review panel shall submit to the department a recommended amount to be allocated to the cost containment pool at least 1 month prior to the start of each fiscal year. The cost containment review panel shall establish a methodology for determining the recommended amount to be allocated to the cost containment pool.

(2) According to criteria and procedures adopted by the cost containment review panel, the cost containment review panel may authorize an allocation from the cost containment pool to a judicial district that has exceeded its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services. The judicial district shall request an allocation from the cost containment review panel before exceeding its annual allocation.

(3) (a) According to criteria and procedures established by

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

the cost containment review panel, the cost containment review panel may authorize an allocation from the cost containment pool to the department for a request submitted under subsection (3) (b).

(b) The department may request at the end of the fiscal year that the cost containment review panel reimburse the department from the cost containment pool for costs incurred under ~~41-5-1504(3)~~ 41-5-1504(2) for placing a youth found to be suffering from a ~~mental disorder~~ disabling condition, including costs for transporting the youth. Before requesting reimbursement, the department shall expend its state youth correctional facility budgets for ~~mental health~~ alternative placements and any parental contributions or federal funds, for which the department has spending authority, or private insurance payments received for treatment.

(4) In addition to any disbursement made by the cost containment review panel under subsection (2) or (3), the department may expend funds from the cost containment pool to reimburse cost containment review panel members or alternates for travel expenses, as provided in 2-18-501 through 2-18-503, and to pay the actual costs incurred in conducting a cost containment review panel meeting, excluding salary and benefits for employees providing support services to the cost containment review panel.

(5) The department shall transfer any amount remaining in the cost containment pool at the end of each fiscal year to the office of court administrator for deposit in the youth court intervention and prevention account provided for in 41-5-2011."

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

{Internal References to 41-5-132:

x41-5-103	x41-5-113	x41-5-130	x41-5-130
x41-5-131	x41-5-131	x41-5-131	x41-5-2006
x41-5-2011	x41-5-2012}		

Section 3. Section 41-5-1503, MCA, is amended to read:

"41-5-1503. Medical or psychological mental health evaluation of youth -- when required -- payment of costs -- urinalysis. (1) The youth court:

(a) may order a youth to receive a medical or ~~psychological~~ mental health evaluation at any time prior to final disposition if the youth waives the youth's constitutional rights in the manner provided for in 41-5-331.

(b) shall, before a dispositional hearing that may result in a youth being placed in a state youth correctional facility, order a mental health evaluation, unless an evaluation sufficient to determine if the youth has a disabling condition has already been performed by an appropriate professional and is current within 6 months before the dispositional hearing. A mental health evaluation ordered pursuant to this subsection (1) (b) must be conducted by a professional person, as defined in 53-21-102(16). The evaluation report shall include a diagnosis, a determination about whether the youth has a disabling condition, and recommendations. If the professional person believes the youth may have a disabling condition under 41-5-103(17) (b) or 41-5-103(17) (c) but is not an appropriate professional for making that determination, the professional person shall recommend further evaluation by an appropriate professional.

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

(2) (a) Except as provided in subsection (2) (b), the youth court shall pay for the cost of the evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

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

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

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

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

{Internal References to 41-5-1503:
x7-6-501 x41-5-103 x41-5-1904}

Section 4. Section 41-5-1504, MCA, is amended to read:

"41-5-1504. ~~Finding of suffering from mental disorder and meeting other criteria -- rights~~ disabling condition --

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

limitation on placement. (1) ~~A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-119.~~

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

(3)(2) ~~A youth who is found by the court to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) disabling condition after placement in or sentencing to a state youth correctional facility must be moved to a more appropriate placement in response to the youth's mental health treatment needs and consistent with the disposition alternatives available in 53-21-127.~~

{Internal References to 41-5-1504:

x41-5-103

a41-5-132

x41-5-1512

x41-5-1513}

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

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

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

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee.

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

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and ~~psychological~~ mental health evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

that the court considers beneficial to the youth and the community;

(j) ~~subject to the provisions of 41-5-1504,~~ commit the youth to the youth court for placement in a mental health treatment facility if, based upon the determination and testimony of ~~a~~ an appropriate professional ~~person as defined in 53-21-102,~~ the court finds that the youth is ~~found to be~~ suffering from a ~~mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1)~~ disabling condition;

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the probation officer for a specified period of time, not to exceed 90 days. The probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The probation officer may, in the probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

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

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

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

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

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

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

the financial responsibility of the judicial district of the court that ordered the evaluation.

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

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

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

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

{Internal References to 41-5-1512:

x7-6-501	x23-5-158	x40-4-204	x41-5-103
x41-5-121	x41-5-121	x41-5-208	x41-5-208
a41-5-1503	x41-5-1513	x41-5-1513	x41-5-1521
x41-5-1604	x41-5-1605	x41-5-2004	x41-5-2005
x45-5-624	x45-5-624}		

Section 6. Section 41-5-1513, MCA, is amended to read:

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

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

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

(b) subject to 41-5-1503, 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522 and this section, commit the youth to the department for placement in a state youth correctional facility and recommend to the department that the youth not be released until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

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

(ii) ~~a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and~~ an evaluation conducted pursuant to 41-5-1503 to determine if a youth has a disabling condition recommends placement in a state youth correctional facility; and

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

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

a disposition under this subsection to ensure registration compliance.

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

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

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

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

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

Unofficial Draft Copy

As of: September 4, 2008 (10:49am)

LC0306

adult.

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

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

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

(c) require completion of sexual offender treatment.

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

(4) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the cost containment review panel.

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

{*Internal References to 41-5-1513:*

x7-6-501	x41-5-103	x41-5-103	x41-5-121
x41-5-121	x41-5-121	x41-5-121	x41-5-208
x41-5-208	x41-5-1521	x41-5-1604	x41-5-1604
x41-5-1605	x41-5-2004	x41-5-2005	x41-5-2005
x46-23-504			

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LC0306

Section 7. Section 52-5-126, MCA, is amended to read:

"52-5-126. Youth parole agreement. ~~(1)~~ A youth released by the department of corrections from the custody of one of the state youth correctional facilities to the supervision, custody, and control of the department shall, before the youth's release, sign a parole agreement containing:

~~(a)~~ (1) a statement of the terms and conditions of the release, including a list of the acts that, if committed by the youth, may result in a return to the facility; and

~~(b)~~ (2) a statement that if the department or any person alleges any violation of the terms and conditions of the agreement, the youth is entitled to a hearing as provided for in 52-5-129 before being returned to the facility.

~~(2) A youth released from a state youth correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, shall sign a parole agreement that will remain in effect until the department no longer has custody of the youth."~~

{Internal References to 52-5-126:

x41-5-1304 x41-5-1522 x41-5-1523 x41-5-1604
x52-5-127}

- END -

{Name : Sheri S. Heffelfinger
Title : Research Analyst
Agency: Legislative Services Division
Phone : 444-3596
E-Mail: sheffelfinger@mt.gov}