

HOUSE BILL NO. 233

INTRODUCED BY M. TROPILA

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE JUVENILE DELINQUENCY
5 INTERVENTION ACT; ALLOCATING PARENTAL CONTRIBUTIONS MADE BY A PARENT OR GUARDIAN OF
6 A YOUTH UNDER THE JURISDICTION OF THE YOUTH COURT TO THE OFFICE OF COURT
7 ADMINISTRATOR; AUTHORIZING THE OFFICE OF COURT ADMINISTRATOR TO ADMINISTER JUVENILE
8 PLACEMENT FUNDS APPROPRIATED TO THE JUDICIAL BRANCH; REQUIRING THE COST CONTAINMENT
9 REVIEW PANEL TO SERVE IN AN ADVISORY CAPACITY TO THE OFFICE OF COURT ADMINISTRATOR;
10 REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO ESTABLISH AND ADMINISTER A COST
11 CONTAINMENT POOL; MAKING DISCRETIONARY THE OFFICE OF COURT ADMINISTRATOR'S
12 EVALUATION OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; PROVIDING FUNDING FOR
13 THE EVALUATION FROM THE COST CONTAINMENT POOL; INCREASING THE FUNDING AVAILABLE FOR
14 THE EVALUATION; ELIMINATING THE REQUIREMENT THAT A YOUTH COURT SUBMIT QUARTERLY
15 REPORTS DOCUMENTING THE USE OF DIVERSION AND PREVENTION PROGRAMS AND PLACEMENT
16 SERVICES; EXPANDING THE PURPOSES FOR WHICH A JUDICIAL DISTRICT MAY USE ITS ALLOCATION
17 FROM THE YOUTH COURT INTERVENTION ACCOUNT; REVISING THE POWERS AND DUTIES OF THE
18 DEPARTMENT OF CORRECTIONS; REVISING THE SCOPE OF JUDICIAL BRANCH POLICIES AND
19 PROCEDURES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-130, 41-5-131, 41-5-132,
20 41-5-1504, 41-5-1512, 41-5-1513, 41-5-2003, 41-5-2004, 41-5-2005, 41-5-2006, 41-5-2011, 41-5-2012, AND
21 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 **Section 1.** Section 41-5-103, MCA, is amended to read:

26 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise,
27 the following definitions apply:

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

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



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

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

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

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

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

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

12 (9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to
13 41-5-206.

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

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

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

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

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

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

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

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

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

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

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

4 (c) violation of a youth parole agreement.

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

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

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

11 (18) "Final disposition" means the implementation of a court order for the disposition or placement of a
12 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.

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

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

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

20 (21) "Guardian" means an adult:

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

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

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

26 (23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control
27 for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed
28 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention
29 or shelter care facility.

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

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

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

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

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

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

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

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

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

18 (i) have physical custody of the youth;

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

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

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

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

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

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

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

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

29 (b) The term does not include:

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

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

6 (35) "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 (36) "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 (37) "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 offenses
13 or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

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

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

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

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

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

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

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

1 (44) "Victim" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,

1 chooses to regard as a youth in need of intervention."
2

3 **Section 2.** Section 41-5-112, MCA, is amended to read:

4 **"41-5-112. Parental contributions account -- allocation of proceeds.** (1) There is a parental
5 contributions account in the state special revenue fund.

6 (2) Contributions paid by the parents and guardians of youth under this chapter must be deposited in
7 the account.

8 (3) ~~All money~~ Contributions in the account paid by a parent or guardian of a youth under the jurisdiction
9 of the youth court, except any amount required to be returned to federal sources, ~~is~~ are allocated to the
10 ~~department office of court administrator~~ to offset the cost of out-of-home placements, programs, and services for
11 youth under the jurisdiction of the youth court ~~or department~~.

12 (4) Contributions in the account paid by a parent or guardian of a youth under the jurisdiction of the
13 department, except any amount required to be returned to federal sources, are allocated to the department to
14 offset the cost of out-of-home placements, programs, and services for youth under the jurisdiction of the
15 department."

16

17 **Section 3.** Section 41-5-121, MCA, is amended to read:

18 **"41-5-121. Youth placement committees -- composition.** (1) In each judicial district, the youth court
19 and the department shall establish a youth placement committee for the purposes of:

20 (a) recommending an appropriate placement of a youth committed to the youth court under 41-5-1512
21 or 41-5-1513 or committed to the department under 41-5-1513; or

22 (b) recommending available community services or alternative placements whenever a change is
23 required in the placement of a youth who is currently in the legal custody of the youth court under 41-5-1512 or
24 41-5-1513 or the department under 41-5-1513. However, the committee may not substitute its judgment for that
25 of the superintendent of a state youth correctional facility regarding the discharge of a youth from the facility or
26 the placement of a youth on parole under the department's jurisdiction.

27 (2) (a) The committee consists of not less than five members and must include persons who are
28 knowledgeable about the youth, treatment and placement options, and other resources appropriate to address
29 the needs of the youth.

30 (b) The committee must include:

- 1 (i) a juvenile parole officer employed by the department;
- 2 (ii) a representative of the department of public health and human services;
- 3 (iii) the chief juvenile probation officer or the chief juvenile probation officer's designee. The officer or the
4 officer's designee is the presiding officer of the committee.
- 5 (iv) a mental health professional; and
- 6 (v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian culture and
7 Indian family matters.
- 8 (c) The committee may include:
- 9 (i) a representative of a school district located within the boundaries of the judicial district who has
10 knowledge of and experience with youth;
- 11 (ii) the youth's parent or guardian;
- 12 (iii) a youth services provider; and
- 13 (iv) the youth's juvenile probation officer.
- 14 (3) The youth court judge shall appoint all members of the youth placement committee except the
15 juvenile parole officer. The director of the department shall appoint the juvenile parole officer and shall, when
16 making the appointment, take into consideration:
- 17 (a) the juvenile parole officer's qualifications;
- 18 (b) the costs involved in the juvenile parole officer's attendance at youth placement committee meetings;
- 19 and
- 20 (c) the location of the juvenile parole officer's home in relation to the location of the youth placement
21 committee.
- 22 (4) Committee members serve without compensation.
- 23 (5) The committee may be convened by request of the department to the presiding officer or by the chief
24 juvenile probation officer.
- 25 (6) If a representative of the school district within the boundaries of which the youth is recommended to
26 be placed and will be attending school is not included on the committee, the person who convened the committee
27 shall inform the school district of the final placement decision for the youth.
- 28 (7) The ~~department~~ office of court administrator may not charge expenditures to the judicial district
29 allocations established pursuant to 41-5-130 unless the youth court ~~and the department have~~ has established
30 a youth placement committee as provided in this section."

1

2 **Section 4.** Section 41-5-130, MCA, is amended to read:

3 "**41-5-130. Department Office of court administrator to administer juvenile placement funds --**
4 **~~transfer of funds -- allocations -- deposit of unexpended funds.~~** (1) The ~~department office of court~~
5 ~~administrator~~ shall administer juvenile placement funds as appropriated to the judicial branch by the legislature
6 in accordance with this chapter. ~~The department shall consult with the office of court administrator when~~
7 ~~developing its budget request for juvenile placement funds for submission to the budget director as provided in~~
8 ~~17-7-112.~~

9 ~~————(2) For each fiscal year, the department shall transfer \$25,000 from the appropriated juvenile placement~~
10 ~~funds to the office of court administrator for evaluations of out-of-home placements, programs, and services as~~
11 ~~provided in 41-5-2003. The office shall deposit the funds in the youth court intervention and prevention account~~
12 ~~provided for in 41-5-2011.~~

13 ~~————(3) For each fiscal year, the department shall, after transferring funds under subsection (2) and allocating~~
14 ~~funds to the cost containment pool under 41-5-132, allocate 11% of the remaining appropriated juvenile~~
15 ~~placement funds for juvenile parole out-of-home placements, programs, and services.~~

16 (2) For each fiscal year, the department shall administer appropriated juvenile placement funds for
17 juvenile parole out-of-home placements, programs, and services.

18 ~~(4)(3) For each fiscal year, the department office of court administrator shall, after allocating allocate~~
19 ~~funds under subsection (3), to the cost containment pool under 41-5-132 and allocate the remaining appropriated~~
20 ~~juvenile placement funds to each judicial district according to a formula established recommended by the cost~~
21 ~~containment review panel provided for in 41-5-131 and adopted by the office of court administrator.~~

22 ~~(5)(4) A judicial district may expend funds from its annual allocation for out-of-home placements or for~~
23 ~~other programs or services intended to reduce or prevent juvenile delinquency subject to the provisions of~~
24 ~~subsection (6) (5).~~

25 ~~(6)(5) (a) Except as provided in subsection (6)(b) (5)(b), a judicial district shall reserve at least 80% 50%~~
26 ~~of its annual allocation for out-of-home placements and the remainder for programs or services.~~

27 (b) A judicial district may reserve ~~up to~~ more than 50% of its annual allocation for programs or services
28 if:

29 (i) the programs or services have, based on demonstrated outcomes, reduced the number of placements
30 in correctional facilities or higher-cost residential placements; and

1 (ii) the judicial district would not require funding from the cost containment pool, provided for in 41-5-132,
2 in the same fiscal year in which the annual allocation is made under this subsection ~~(6)(b)~~ (5)(b).

3 ~~(7) A judicial district that intends to expend funds from its annual allocation on an out-of-home placement,
4 program, or service for a person who is 18 years of age or older shall submit to the cost containment review panel
5 a plan describing how the funds will be used. The cost containment review panel shall approve or disapprove the
6 plan. If the plan is approved, the judicial district may expend funds from its annual allocation to implement the
7 plan.~~

8 ~~(8)(6)~~ At the end of each fiscal year, after all valid obligations have been paid or encumbered for
9 payment, the ~~department~~ office of court administrator shall ~~transfer~~ deposit any unexpended funds from the
10 judicial districts' annual allocations provided for in this section ~~to the office of court administrator for deposit into~~
11 the youth court intervention and prevention account provided for in 41-5-2011."

12

13 **Section 5.** Section 41-5-131, MCA, is amended to read:

14 **"41-5-131. Cost containment review panel -- duties.** (1) The ~~department~~ supreme court shall establish
15 a cost containment review panel to advise the office of court administrator in administering the cost containment
16 pool and youth court intervention and prevention account.

17 (2) (a) The members of the cost containment review panel must be appointed as follows:

18 (i) three members appointed by the director of the department ~~of corrections~~;

19 (ii) three members appointed by the chief justice of the supreme court; and

20 (iii) one member who is a professional working in the field of children's mental health appointed by the
21 director of the department of public health and human services.

22 (b) Each appointing authority under subsection (2)(a) shall appoint one person to serve as the alternate
23 for a member appointed by the authority who is unable to participate in a cost containment review panel meeting.

24 (3) ~~Decisions~~ Recommendations of the cost containment review panel must be made by majority vote
25 of the members of the cost containment review panel or their alternates.

26 (4) The cost containment review panel shall:

27 (a) ~~establish the~~ recommend a formula for the annual allocation to each judicial district as provided in
28 41-5-130;

29 ~~(b) approve or disapprove plans for out-of-home placements, programs, or services for persons 18 years~~
30 ~~of age or older as provided in 41-5-130;~~

- 1 ~~(c)~~(b) recommend an amount to be allocated to the cost containment pool as provided in 41-5-132;
- 2 ~~(d)~~(c) approve review requests by judicial districts for allocations from the cost containment pool and
- 3 recommend to the office of court administrator whether each request should be approved as provided in
- 4 41-5-132;
- 5 ~~(e)~~(d) approve requests by the department for reimbursement from the cost containment pool as
- 6 provided in 41-5-132;
- 7 (e) provide recommendations to the department regarding placement for youth as provided in 41-5-1504;
- 8 (f) provide recommendations on the evaluation of out-of-home placements, programs, and services as
- 9 provided in 41-5-2003; and
- 10 (g) review plans submitted under 41-5-2012 and recommend to the office of court administrator whether
- 11 each plan should be approved; ~~and~~
- 12 ~~— (h) adopt procedures for the operation of the cost containment review panel."~~

13

14 **Section 6.** Section 41-5-132, MCA, is amended to read:

15 **"41-5-132. Cost containment pool -- allocation of appropriated funds -- ~~authorization of allocation~~**

16 **~~from pool -- transfer deposit of unexpended funds.~~** (1) (a) The ~~department~~ office of court administrator shall

17 establish a cost containment pool. After considering the cost containment review panel's recommendation as

18 provided for in subsection (1)(b), the ~~department~~ office of court administrator shall allocate to the cost

19 containment pool at the beginning of each fiscal year not less than \$1 million from the funds appropriated for

20 juvenile placements.

21 (b) The cost containment review panel shall submit to the ~~department~~ office of court administrator a

22 recommended amount to be allocated to the cost containment pool at least 1 month prior to the start of each fiscal

23 year. The cost containment review panel shall establish a methodology for determining the recommended amount

24 to be allocated to the cost containment pool.

25 (2) ~~According to criteria and procedures adopted by~~ Before a judicial district exceeds its annual allocation

26 under 41-5-130 for juvenile out-of-home placements, programs, and services, the judicial district shall submit to

27 the cost containment review panel a request for an allocation from the cost containment pool. After reviewing the

28 request, the cost containment review panel may authorize shall recommend to the office of court administrator

29 whether an allocation from the cost containment pool should be made to a the judicial district that has exceeded

30 its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services. The judicial

1 ~~district shall request an allocation from the cost containment review panel before exceeding its annual allocation.~~
 2 After considering the cost containment review panel's recommendation, the office of court administrator may
 3 approve the judicial district's request and disburse funds from the pool for expenditure by the judicial district.

4 (3) (a) According to criteria and procedures established by the cost containment review panel, the cost
 5 containment review panel may authorize an allocation from the cost containment pool to the department for a
 6 request submitted under subsection (3)(b).

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

13 (4) In addition to any disbursement made by the ~~cost containment review panel~~ office of court
 14 administrator under subsection (2) or (3), the ~~department~~ office may expend funds from the cost containment pool
 15 to:

16 (a) reimburse cost containment review panel members or alternates for travel expenses, as provided
 17 in 2-18-501 through 2-18-503, and to pay the actual costs incurred in conducting a cost containment review panel
 18 meeting, excluding salary and benefits for employees providing support services to the cost containment review
 19 panel; and

20 (b) conduct an evaluation of out-of-home placements, programs, and services as provided in 41-5-2003.
 21 The office of court administrator may not expend more than \$50,000 each year from the cost containment pool
 22 to conduct the evaluation.

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

26

27 **Section 7.** Section 41-5-1504, MCA, is amended to read:

28 **"41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights --**
 29 **limitation on placement.** (1) A youth who is found to be suffering from a mental disorder, as defined in
 30 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through

1 53-21-119.

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

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

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

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

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

19

20 **Section 8.** Section 41-5-1512, MCA, is amended to read:

21 **"41-5-1512. Disposition of youth in need of intervention or youth who violate consent**
22 **adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent
23 adjustment, the youth court may enter its judgment making one or more of the following dispositions:

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

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

29 (c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility
30 subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine

1 whether continuation in the youth's own home would be contrary to the welfare of the youth and whether
2 reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's
3 home.

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

6 (e) require the performance of community service;

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

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

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

13 (i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and
14 the community;

15 (j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based ~~upon~~ on
16 the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be
17 suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

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

19 (l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer
20 for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department
21 of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the
22 youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated
23 driver's license has been returned to the youth. A youth's driver's license may be confiscated under this
24 subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and
25 with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination
26 of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor
27 in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a
28 vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or
29 other occurrence under an existing policy.

30 (m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition,

1 and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care,
2 custody, and treatment of the youth, including the costs of counseling;

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

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

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

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

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

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

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

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

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

24

25 **Section 9.** Section 41-5-1513, MCA, is amended to read:

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

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

29 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for
30 placement in a state youth correctional facility and recommend to the department that the youth not be released

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

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

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

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

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

14 (d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in
15 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the
16 youth from the duty to register if the court finds that:

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

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

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

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

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

30 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of

1 46-18-111;

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

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

4 (d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose ~~upon~~ on the
5 youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth
6 court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed
7 pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to
8 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is
9 transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the
10 restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the
11 supervision of the offender is transferred to the department.

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

17 (4) 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
19 a youth, except as provided in 52-5-109.

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

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

26

27 **Section 10.** Section 41-5-2003, MCA, is amended to read:

28 **"41-5-2003. Establishment of program -- ~~department duties~~ -- office of court administrator duties.**

29 (1) There is a juvenile delinquency intervention program. Each judicial district shall participate in the program.

30 (2) The ~~department~~ office of court administrator and the judicial district shall monitor the judicial district's

1 annual allocation provided for in 41-5-130 to ensure that the judicial district does not exceed its allocation.

2 (3) The ~~department~~ office of court administrator shall provide technical assistance to each judicial district
3 for the monitoring of its annual allocation.

4 (4) The office of court administrator shall assist each youth court in developing placement alternatives
5 and community intervention and prevention programs and services.

6 (5) (a) ~~Except as provided in subsection (6), each~~ Each fiscal year, the office of court administrator shall
7 may select out-of-home placements, programs, and services to be evaluated for their effectiveness in achieving
8 the purposes provided in 41-5-2002. The cost containment review panel shall provide recommendations to the
9 office on out-of-home placements, programs, and services to be evaluated and on the scope of the evaluation.
10 Before conducting any evaluation, the office shall obtain approval from the district court council established in
11 3-1-1602.

12 (b) The office shall report the results of any evaluation conducted under subsection (5)(a) ~~each year~~ to
13 the department, cost containment review panel, district court council, and law and justice interim committee.

14 ~~(6) On or before June 30 in fiscal years 2011 and 2012, the office of court administrator shall transfer~~
15 ~~\$25,000 in each fiscal year from the youth court intervention and prevention account to the general fund in lieu~~
16 ~~of conducting the evaluation required by subsection (5) for fiscal years 2011 and 2012."~~

17

18 **Section 11.** Section 41-5-2004, MCA, is amended to read:

19 **"41-5-2004. Youth court duties.** Each youth court shall:

20 (1) use available resources to develop alternatives for the placement of youth;

21 (2) use available resources for early intervention strategies for troubled youth;

22 (3) use a validated risk assessment instrument approved by the office of court administrator for the
23 measurement of risk and the effectiveness of treatment or intervention services for youth pursuant to 41-5-1512
24 or 41-5-1513; and

25 ~~(4) submit quarterly reports to the office of court administrator and the department documenting the use~~
26 ~~of diversion and prevention programs and the use of placement services; and~~

27 ~~(5)~~(4) provide the legislative auditor with access to all records maintained by the youth court as otherwise
28 permitted by law."

29

30 **Section 12.** Section 41-5-2005, MCA, is amended to read:

1 **"41-5-2005. Youth placement committee recommendation to youth court judge -- acceptance or**
 2 **rejection.** (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or
 3 41-5-1513 or to the department under 41-5-1513, a youth placement committee must be convened. Except as
 4 provided in subsection (1)(b), the committee shall submit in writing to the youth court judge its primary and
 5 alternative recommendations for placement of the youth.

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

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

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

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

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

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

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

25

26 **Section 13.** Section 41-5-2006, MCA, is amended to read:

27 **"41-5-2006. Rulemaking authority -- Judicial branch policies and procedures.** ~~(1) The department~~
 28 ~~shall adopt rules necessary to perform its duties under this chapter, including but not limited to rules regarding:~~

29 ~~— (a) monitoring judicial districts' annual allocations provided for in 41-5-130;~~

30 ~~— (b) processing payments for out-of-home placements, programs, and services on behalf of the youth~~

1 courts;

2 ~~—— (c) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132; and~~

3 ~~—— (d) removing youth with a mental disorder, as defined in 53-21-102, from state youth correctional~~

4 facilities.

5 ~~—— (2)~~ The district court council, established in 3-1-1602, shall adopt policies and procedures, subject to

6 review by the supreme court, necessary for the youth courts, cost containment review panel, and office of court

7 administrator to perform their duties under this chapter, including but not limited to policies and procedures

8 regarding for:

9 ~~(a)(1)~~ guidelines for evaluating out-of-home placements, programs, and services as provided in

10 41-5-2003;

11 (2) monitoring judicial districts' annual allocations provided for in 41-5-130;

12 (3) processing payments for out-of-home placements, programs, and services on behalf of the youth

13 court;

14 (4) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132;

15 ~~(b)(5)~~ administration of submitting judicial district plans to the office of court administrator for expending

16 allocations from the youth court intervention and prevention account provided for in 41-5-2011;

17 (6) reviewing judicial district plans by the cost containment review panel and making recommendations

18 to the office of court administrator on plan approval as provided for in 41-5-2012;

19 ~~(c)(7)~~ monitoring of youth courts to promote consistency and uniformity in the placement of juveniles

20 referred to the youth courts; and

21 ~~(d)(8)~~ approval of providing one or more risk assessment tools to be used by the youth courts."

22

23 **Section 14.** Section 41-5-2011, MCA, is amended to read:

24 **"41-5-2011. Youth court intervention and prevention account -- statutory appropriation --**

25 **administration.** (1) There is a youth court intervention and prevention account in the state special revenue fund.

26 The office of court administrator shall deposit in the account the following funds ~~transferred by the department:~~

27 ~~(a) funds transferred under 41-5-130(2) for evaluations of out-of-home placements, programs, and~~

28 ~~services;~~

29 ~~(b)(a)~~ unexpended funds from the judicial districts' annual allocations as provided for in 41-5-130~~(b)~~; and

30 ~~(c)(b)~~ unexpended funds from the cost containment pool as provided for in 41-5-132.

1 (2) The youth court intervention and prevention account is statutorily appropriated, as provided in
 2 17-7-502, to the supreme court. The office of court administrator shall administer the account in accordance with
 3 41-5-2012."

4

5 **Section 15.** Section 41-5-2012, MCA, is amended to read:

6 **"41-5-2012. Allocation to judicial districts from youth court intervention and prevention account**
 7 **-- judicial district plans -- cost containment review and recommendation -- ~~policies and procedures.~~ (1)**

8 (a) At the beginning of each fiscal year, the office of court administrator shall allocate from the youth court
 9 intervention and prevention account to each judicial district an amount equal to the unexpended funds from the
 10 judicial district's annual allocation for the previous fiscal year under 41-5-130.

11 (b) In addition to the amount allocated under subsection (1)(a), at the beginning of each fiscal year, the
 12 office of court administrator shall allocate from the youth court intervention and prevention account to all judicial
 13 districts the unexpended funds from the cost containment pool ~~transferred~~ deposited from the previous fiscal year
 14 under 41-5-132. The office shall allocate the funds according to the formula that was used to determine the
 15 judicial districts' annual allocations for the previous fiscal year under 41-5-130.

16 (2) Upon approval of the youth court judge, a judicial district may submit a plan to the office of court
 17 administrator for approval to expend the amounts allocated to the judicial district under subsection (1) for one or
 18 more of the following purposes:

19 (a) to establish or expand community prevention and intervention programs and services for youth,
 20 including training for individuals to provide the programs and services to youth;

21 (b) to provide an alternative method for funding out-of-home placements; and

22 (c) to provide matching funds for federal money for intervention and prevention programs that provide
 23 direct services to youth.

24 (3) Two or more judicial districts may jointly submit a plan to combine any portion of the amounts
 25 allocated to the districts under subsection (1) to expend funds on a regional or statewide basis in accordance with
 26 subsection (2).

27 (4) The cost containment review panel provided for in 41-5-131 shall review each plan submitted to the
 28 office of court administrator. ~~The cost containment review panel shall~~ and recommend to the office whether ~~each~~
 29 the plan should be approved. The office shall consider the cost containment review panel's recommendation
 30 before approving or disapproving a plan.

1 (5) The office of court administrator shall notify the judicial district; and cost containment review panel;
 2 ~~and department~~ in writing as to whether a plan has been approved or disapproved. If the office disapproves a
 3 plan, the judicial district may submit a revised plan.

4 (6) (a) A judicial district shall expend the amounts allocated to the district under subsection (1) in
 5 accordance with an approved plan by the end of the fiscal year following the fiscal year in which the amounts
 6 were allocated under subsection (1).

7 (b) ~~Any~~ The office of court administrator shall deposit in the general fund any portion of the amounts
 8 allocated under subsection (1) not expended within the time provided for in subsection (6)(a) ~~must be transferred~~
 9 ~~to the general fund.~~

10 ~~(7) (a) Except as provided in subsection (7)(b), the district court council, established in 3-1-1602, shall~~
 11 ~~adopt policies and procedures, subject to review by the supreme court, for administering this section, including~~
 12 ~~procedures for submitting plans to the office of court administrator and criteria to be used by the office in~~
 13 ~~evaluating and approving the plans.~~

14 ~~————(b) The cost containment review panel shall adopt procedures for reviewing plans submitted to the office~~
 15 ~~of court administrator and making recommendations to the office on plan approval."~~

16

17 **Section 16.** Section 53-1-203, MCA, is amended to read:

18 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

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

20 (i) to carry out the purposes of 41-5-125;

21 (ii) for the siting, establishment, and expansion of prerelease centers;

22 (iii) for the expansion of treatment facilities or programs previously established by contract through a
 23 competitive procurement process;

24 (iv) for the establishment and maintenance of residential methamphetamine treatment programs; and

25 (v) for the admission, custody, transfer, and release of persons in department programs except as
 26 otherwise provided by law;

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

1 persons confined in correctional facilities;

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

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

11 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as
12 provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for
13 persons convicted of possession of methamphetamine. The department shall issue a request for proposals using
14 a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

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

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

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

22 (g) administer all state and federal funds allocated to the department for ~~youth in need of intervention~~
23 ~~and delinquent youth, as defined in 41-5-103, except as provided in 41-5-2012;~~

24 (h) collect and disseminate information relating to youth who are committed to the department for
25 placement in a state youth correctional facility;

26 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed
27 of the specific information, by category, related to ~~youth in need of intervention and~~ delinquent youth in
28 out-of-home care facilities;

29 (j) provide funding for youth who are committed to the department for placement in a state youth
30 correctional facility;

- 1 (k) administer youth correctional facilities;
- 2 (l) provide supervision, care, and control of youth released from a state youth correctional facility; and
- 3 (m) use to maximum efficiency the resources of state government in a coordinated effort to:
- 4 (i) provide for delinquent youth committed to the department; and
- 5 (ii) coordinate and apply the principles of modern correctional administration to the facilities and programs
- 6 administered by the department.
- 7 (2) The department may contract with private, nonprofit or for-profit Montana corporations to establish
- 8 and maintain a residential sexual offender treatment program. If the department intends to contract for that
- 9 purpose, the department shall adopt rules for the establishment and maintenance of that program.
- 10 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
- 11 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit
- 12 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a
- 13 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
- 14 committee. The legislative audit division shall review the contract and make recommendations or comments to
- 15 the legislative audit committee. The committee may make recommendations or comments to the department. The
- 16 department shall respond to the committee, accepting or rejecting the committee recommendations or comments
- 17 prior to entering into the contract.
- 18 (4) The department of corrections may enter into contracts with nonprofit corporations or associations
- 19 or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on
- 20 juvenile parole supervision.
- 21 (5) The department may contract with Montana corporations to operate a day reporting program as an
- 22 alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015.
- 23 The department shall adopt by rule the requirements for a day reporting program, including but not limited to
- 24 requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance
- 25 with any conditions of probation, such as drug testing.
- 26 (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory
- 27 powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and
- 28 expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,
- 29 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited
- 30 at any location without community support. The prerelease siting, establishment, and expansion must be subject

1 to, and the rules must include, a reasonable mechanism for a determination of community support for or objection
2 to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment,
3 and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3."

4

5 NEW SECTION. **Section 17. Effective date.** [This act] is effective July 1, 2015.

6

- END -