



AN ACT GENERALLY REVISING THE JUVENILE DELINQUENCY INTERVENTION ACT; ALLOCATING PARENTAL CONTRIBUTIONS MADE BY A PARENT OR GUARDIAN OF A YOUTH UNDER THE JURISDICTION OF THE YOUTH COURT TO THE OFFICE OF COURT ADMINISTRATOR; AUTHORIZING THE OFFICE OF COURT ADMINISTRATOR TO ADMINISTER JUVENILE PLACEMENT FUNDS APPROPRIATED TO THE JUDICIAL BRANCH; REQUIRING THE COST CONTAINMENT REVIEW PANEL TO SERVE IN AN ADVISORY CAPACITY TO THE OFFICE OF COURT ADMINISTRATOR; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO ESTABLISH AND ADMINISTER A COST CONTAINMENT POOL; MAKING DISCRETIONARY THE OFFICE OF COURT ADMINISTRATOR'S EVALUATION OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; PROVIDING FUNDING FOR THE EVALUATION FROM THE COST CONTAINMENT POOL; INCREASING THE FUNDING AVAILABLE FOR THE EVALUATION; ELIMINATING THE REQUIREMENT THAT A YOUTH COURT SUBMIT QUARTERLY REPORTS DOCUMENTING THE USE OF DIVERSION AND PREVENTION PROGRAMS AND PLACEMENT SERVICES; EXPANDING THE PURPOSES FOR WHICH A JUDICIAL DISTRICT MAY USE ITS ALLOCATION FROM THE YOUTH COURT INTERVENTION ACCOUNT; REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTIONS; REVISING THE SCOPE OF JUDICIAL BRANCH POLICIES AND PROCEDURES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-130, 41-5-131, 41-5-132, 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 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

(13) (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) "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 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) "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.

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

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

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

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

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

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

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

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

(35) "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) "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) "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) "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 offense against property, or an offense involving dangerous drugs.

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

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

(43) "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.

(44) "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), if the victim is a minor; and

(c) an adult relative of a homicide victim.

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

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

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

(49) "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, juvenile probation officers, and assessment officers.

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

(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) "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."

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

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

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

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

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

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

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

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

(b) recommending available community services or alternative placements whenever a change is required in the placement of a youth who is currently in the legal custody of the youth court under 41-5-1512 or

41-5-1513 or the department under 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of a state youth correctional facility regarding the discharge of a youth from the facility or the placement of a youth on parole under the department's jurisdiction.

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

(b) The committee must include:

(i) a juvenile parole officer employed by the department;

(ii) a representative of the department of public health and human services;

(iii) the chief juvenile probation officer or the chief juvenile probation officer's designee. The officer or the officer's designee is the presiding officer of the committee.

(iv) a mental health professional; and

(v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian culture and Indian family matters.

(c) The committee may include:

(i) a representative of a school district located within the boundaries of the judicial district who has knowledge of and experience with youth;

(ii) the youth's parent or guardian;

(iii) a youth services provider; and

(iv) the youth's juvenile probation officer.

(3) The youth court judge shall appoint all members of the youth placement committee except the juvenile parole officer. The director of the department shall appoint the juvenile parole officer and shall, when making the appointment, take into consideration:

(a) the juvenile parole officer's qualifications;

(b) the costs involved in the juvenile parole officer's attendance at youth placement committee meetings;

and

(c) the location of the juvenile parole officer's home in relation to the location of the youth placement committee.

(4) Committee members serve without compensation.

(5) The committee may be convened by request of the department to the presiding officer or by the chief juvenile probation officer.

(6) If a representative of the school district within the boundaries of which the youth is recommended to be placed and will be attending school is not included on the committee, the person who convened the committee shall inform the school district of the final placement decision for the youth.

(7) The ~~department~~ office of court administrator may not charge expenditures to the judicial district allocations established pursuant to 41-5-130 unless the youth court ~~and the department have~~ has established a youth placement committee as provided in this section."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) one member who is a professional working in the field of children's mental health appointed by the

director of the department of public health and human services.

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

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

(4) The cost containment review panel shall:

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

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

~~(e)(b)~~ recommend an amount to be allocated to the cost containment pool as provided in 41-5-132;

~~(d)(c)~~ approve review requests by judicial districts for allocations from the cost containment pool and recommend to the office of court administrator whether each request should be approved as provided in 41-5-132;

~~(e)(d)~~ approve requests by the department for reimbursement from the cost containment pool as provided in 41-5-132;

(e) provide recommendations to the department regarding placement for youth as provided in 41-5-1504;

(f) provide recommendations on the evaluation of out-of-home placements, programs, and services as provided in 41-5-2003; and

(g) review plans submitted under 41-5-2012 and recommend to the office of court administrator whether each plan should be approved; ~~and~~

~~(h) adopt procedures for the operation of the cost containment review panel."~~

**Section 6.** 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~~ deposit of unexpended funds.** (1) (a) The ~~department~~ office of court administrator shall establish a cost containment pool. After considering the cost containment review panel's recommendation as provided for in subsection (1)(b), the ~~department~~ office of court administrator 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~~ office of court administrator 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~~ Before a judicial district exceeds its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services, the judicial district shall submit to the cost containment review panel a request for an allocation from the cost containment pool. After reviewing the request, the cost containment review panel may authorize ~~shall recommend to the office of court administrator whether an allocation from the cost containment pool should be made to a~~ the 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. After considering the cost containment review panel's recommendation, the office of court administrator may approve the judicial district's request and disburse funds from the pool for expenditure by the judicial district.

(3) (a) According to criteria and procedures established by 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) for placing a youth found to be suffering from a mental disorder, including costs for transporting the youth. Before requesting reimbursement, the department shall expend its ~~state youth correctional facility~~ budgets for mental health placements and services to youth 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~~ office of court administrator under subsection (2) or (3), the ~~department~~ office may expend funds from the cost containment pool to:

(a) 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; and

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

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

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

**"41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights -- 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 to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a state youth correctional facility.

(3) (a) 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), 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 needs and consistent with the disposition alternatives available in 53-21-127.

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

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

(iii) The cost containment review panel shall establish protocols for making recommendations to the

department under this section."

**Section 8.** 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.

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

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based ~~upon~~ on the testimony of a 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);

(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 juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile 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 juvenile 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 juvenile probation officer may, in the juvenile 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 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 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 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; or
- (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~~ office of court administrator."

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

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

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

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

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

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

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

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

(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 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;

(c) require completion of sexual offender treatment; and

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

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction

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

(4) 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.

(5) 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~~ office of court administrator.

(6) 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."

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

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

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

(2) The ~~department~~ office of court administrator and the judicial district shall monitor the judicial district's annual allocation provided for in 41-5-130 to ensure that the judicial district does not exceed its allocation.

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

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

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

(b) The office shall report the results of any evaluation conducted under subsection (5)(a) ~~each year~~ to

the department, cost containment review panel, district court council, and law and justice interim committee.

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

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

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

- (1) use available resources to develop alternatives for the placement of youth;
- (2) use available resources for early intervention strategies for troubled youth;
- (3) use a validated risk assessment instrument approved by the office of court administrator for the measurement of risk and the effectiveness of treatment or intervention services for youth pursuant to 41-5-1512 or 41-5-1513; and

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

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

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

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

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

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

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services

are not appropriate.

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

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

(6) The youth court may not order a placement or change of placement 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~~ office of court administrator.

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

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

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

- ~~—— (a) monitoring judicial districts' annual allocations provided for in 41-5-130;~~
- ~~—— (b) processing payments for out-of-home placements, programs, and services on behalf of the youth courts;~~
- ~~—— (c) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132; and~~
- ~~—— (d) removing youth with a mental disorder, as defined in 53-21-102, from state youth correctional facilities;~~

~~—— (2) The district court council, established in 3-1-1602, shall adopt policies and procedures, subject to review by the supreme court, necessary for the youth courts, cost containment review panel, and office of court administrator to perform their duties under this chapter, including but not limited to policies and procedures regarding for:~~

- ~~(a)(1) guidelines for evaluating out-of-home placements, programs, and services as provided in 41-5-2003;~~

- (2) monitoring judicial districts' annual allocations provided for in 41-5-130;
- (3) processing payments for out-of-home placements, programs, and services on behalf of the youth court;
- (4) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132;
- ~~(b)(5) administration of~~ submitting judicial district plans to the office of court administrator for expending allocations from the youth court intervention and prevention account provided for in 41-5-2011;
- (6) reviewing judicial district plans by the cost containment review panel and making recommendations to the office of court administrator on plan approval as provided for in 41-5-2012;
- ~~(e)(7) monitoring of~~ youth courts to promote consistency and uniformity in the placement of juveniles referred to the youth courts; and
- ~~(d)(8) approval of~~ providing one or more risk assessment tools to be used by the youth courts."

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

**"41-5-2011. Youth court intervention and prevention account -- statutory appropriation -- administration.** (1) There is a youth court intervention and prevention account in the state special revenue fund. The office of court administrator shall deposit in the account the following funds ~~transferred by the department:~~

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

~~(b)(a)~~ unexpended funds from the judicial districts' annual allocations as provided for in 41-5-130~~(8)~~; and

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

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

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

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

(a) At the beginning of each fiscal year, the office of court administrator shall allocate from the youth court intervention and prevention account to each judicial district an amount equal to the unexpended funds from the

judicial district's annual allocation for the previous fiscal year under 41-5-130.

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

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

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

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

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

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

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

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

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

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

to the general fund.

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

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

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

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

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

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

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

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

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

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

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

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

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The

centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

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

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

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

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

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

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

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

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

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

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

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

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

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

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

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

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

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

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

- END -

I hereby certify that the within bill,  
HB 0233, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

HOUSE BILL NO. 233

INTRODUCED BY M. TROPILA, BRODEHL

AN ACT GENERALLY REVISING THE JUVENILE DELINQUENCY INTERVENTION ACT; ALLOCATING PARENTAL CONTRIBUTIONS MADE BY A PARENT OR GUARDIAN OF A YOUTH UNDER THE JURISDICTION OF THE YOUTH COURT TO THE OFFICE OF COURT ADMINISTRATOR; AUTHORIZING THE OFFICE OF COURT ADMINISTRATOR TO ADMINISTER JUVENILE PLACEMENT FUNDS APPROPRIATED TO THE JUDICIAL BRANCH; REQUIRING THE COST CONTAINMENT REVIEW PANEL TO SERVE IN AN ADVISORY CAPACITY TO THE OFFICE OF COURT ADMINISTRATOR; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO ESTABLISH AND ADMINISTER A COST CONTAINMENT POOL; MAKING DISCRETIONARY THE OFFICE OF COURT ADMINISTRATOR'S EVALUATION OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; PROVIDING FUNDING FOR THE EVALUATION FROM THE COST CONTAINMENT POOL; INCREASING THE FUNDING AVAILABLE FOR THE EVALUATION; ELIMINATING THE REQUIREMENT THAT A YOUTH COURT SUBMIT QUARTERLY REPORTS DOCUMENTING THE USE OF DIVERSION AND PREVENTION PROGRAMS AND PLACEMENT SERVICES; EXPANDING THE PURPOSES FOR WHICH A JUDICIAL DISTRICT MAY USE ITS ALLOCATION FROM THE YOUTH COURT INTERVENTION ACCOUNT; REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTIONS; REVISING THE SCOPE OF JUDICIAL BRANCH POLICIES AND PROCEDURES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-130, 41-5-131, 41-5-132, 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 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE.