

1 HOUSE BILL NO. 479

2 INTRODUCED BY E. HILL SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DISPOSITIONS OF YOUTH
5 DETERMINED TO BE DELINQUENT; PROVIDING THAT COMMITTING FOUR OR MORE MISDEMEANORS
6 IS NO LONGER PART OF THE CRITERIA THAT MAY RESULT IN A YOUTH BEING SENT TO A YOUTH
7 CORRECTIONAL FACILITY; AND AMENDING SECTION 41-5-1513, MCA."

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

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11 **Section 1.** Section 41-5-1513, MCA, is amended to read:12 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent
13 youth, the youth court may enter its judgment making one or more of the following dispositions:

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

15 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for
16 placement in a state youth correctional facility and recommend to the department that the youth not be released
17 until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to
18 placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth
19 in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult, ~~unless:~~20 ~~(i) the youth committed four or more misdemeanors in the prior 12 months;~~21 ~~(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or~~
22 ~~a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional~~
23 ~~facility; and~~24 ~~(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state~~
25 ~~youth correctional facility.~~26 (c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the
27 result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by
28 an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth
29 court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

30 (d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in

1 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the
2 youth from the duty to register if the court finds that:

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

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

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

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

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

16 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of
17 46-18-111;

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

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

20 (d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth
21 those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court
22 or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed
23 pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to
24 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is
25 transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the
26 restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the
27 supervision of the offender is transferred to the department.

28 (3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the
29 youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction
30 shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication,

1 any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the
2 name of the victim, and provide a copy of the court's disposition order to the superintendent.

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

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

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

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