

HOUSE JOINT RESOLUTION NO. 23

INTRODUCED BY J. REAVIS, T. MILLETT

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO REVIEW, SIMPLIFY, AND STREAMLINE THE MONTANA YOUTH COURT ACT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 70TH LEGISLATURE.

WHEREAS, Article II, section 15, of the Montana Constitution provides that the rights of persons under 18 years of age must include all the fundamental rights of adults unless specifically precluded by laws that enhance the protections of these persons; and

WHEREAS, when a youth commits an act that would constitute a crime if committed by an adult, the Montana Legislature has adopted the Montana Youth Court Act to address, adjudicate, and dispose of these issues; and

WHEREAS, the Montana Youth Court Act provides in section 41-5-102, MCA, that the Act must be interpreted and construed to preserve unity and welfare with the family, reduce youth delinquency, provide consistent consequences for the youth's actions, and provide judicial hearings that ensure the parties a fair, accurate hearing and recognition of their constitutional and statutory rights; and

WHEREAS, the Montana Youth Court Act has been repeatedly amended since its adoption in 1947; and

WHEREAS, in the course of amending the Montana Youth Court Act over the decades, the text has become unwieldy and cluttered and now consists of 13 parts of various sizes with multiple cross-references across the Act; and

WHEREAS, the complexity of the Montana Youth Court Act is now exceeding the complexity of the criminal code for adults; and

WHEREAS, as an example of this complexity, there are multiple decision points as to whether charges should be filed in district court, youth court, or resolved informally without court involvement; and

WHEREAS, as another example of complexity, charging decisions are based on multiple factors, such

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Drafter: Rachel Weiss,

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as the nature of the offense, the youth's age, the discretion or lack of discretion of the county attorney, and the opportunity for a "transfer hearing" to move some or all of the charges to district court or youth court, creating a trial within a trial; and

WHEREAS, as another example of complexity, there are a variety of dispositions unique to the Montana Youth Court Act, such as consent decree, consent adjustment with petition, consent adjustment without petition, disposition in violation of consent adjustment, commitment to department, and extended jurisdiction juvenile; and

WHEREAS, as another example of complexity, there is a confusing series of laws regarding supervision when a youth becomes an adult, such as a "208 transfer," an extended jurisdiction prosecution, and the Criminally Convicted Youth Act; and

WHEREAS, as a result of this complexity, a juvenile proceeding was reversed by the Montana Supreme Court for a failure to follow this complex procedure in Matter of C.L., 2021 MT 294 (DA 20-0155), which involved a briefing that included a full-page flowchart to explain the youth court adjudication process; and

WHEREAS, a review, simplification, and clean-up of the Montana Youth Court Act would provide clarity to judges, county attorneys, the legal profession, and families; and

WHEREAS, a streamlined and simplified Act would better fulfill the purposes provided in section 41-5-102, MCA; and

WHEREAS, a simplified Act will still provide accountability for the youth's actions and protect the rights of all parties by ensuring fair and accurate hearings.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, to review and propose legislation to simplify and streamline the Montana Youth Court Act.

BE IT FURTHER RESOLVED, that the committee shall include input from county attorneys, the court administrator, youth court services personnel, district court judges and personnel, youth probation officers, the director or designee of the Office of the Public Defender, the director or designee of the Department of Public

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1 Health and Human Services, and the director or designee of the Department of Corrections.

2 BE IT FURTHER RESOLVED, that any changes proposed as a result of the committee's study should
3 remain consistent with the legislative purposes enumerated in section 41-5-102, MCA, should not be driven by
4 policy intended to increase punishment of youth, and should focus primarily on procedure.

5 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
6 requirements, be concluded prior to September 15, 2026.

7 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
8 comments, or recommendations of the appropriate committee, be reported to the 70th Legislature.

9 - END -