



**DEPARTMENT OF CORRECTIONS  
PROBATION AND PAROLE DIVISION  
OPERATIONAL PROCEDURE**

Procedure No.: PPD 6.1.207	Subject: <b>LEGAL CUSTODY OF YOUTH OFFENDER</b>
Reference: 41-5-103, MCA; 52-5-127, MCA	Page 1 of 2
Effective Date: 03/15/18	Revised:
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

**I. PURPOSE:**

To clarify the Department of Corrections' authority to act as a legal custodian for youth offenders.

**II. DEFINITIONS:**

**Commit** – To transfer legal custody of a youth to the Department or to the youth court.

**Legal Custody** – The legal status created by order of the court of competent jurisdiction that gives a person the right and duty to:

- have physical custody of the youth;
- determine with whom the youth shall live and for what period;
- protect, train, discipline the youth; and
- provide the youth with food, shelter, education, and ordinary medical care.

**III. PROCEDURES:**

**A. PLACEMENT AUTHORITY**

1. The Department of Corrections has legal custody of youth committed to the Department for placement in youth correctional facilities and placed on parole supervision.
2. The Department has the authority to place youth in out-of-home placements without parental approval; however, parental cooperation and teamwork is encouraged.

**B. AUTHORIZATION TO RELEASE INFORMATION**

1. Parole Officers (PO) will make every attempt possible to obtain a youth's parent/guardian/custodian/representative authorization for:
  - a. medical treatment;
  - b. release of confidential information;
  - c. special education placements;
  - d. Psychiatric Residential Treatment Facility (PRTF) placements;
  - e. Individual Education Plan/Child Study Team meetings; and
  - f. any other circumstance when parental authorization/signatures are needed.
2. POs should contact the superintendent or designee of the appropriate youth correctional facility to obtain authorization when a parent/guardian/custodian/representative:
  - a. is not available in response to an emergency;
  - b. has not responded to repeated attempts to contact them;
  - c. cannot be located; or
  - d. refuses to cooperate.

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3. A youth correctional facility superintendent or designee may sign a release for medical treatment or to release documents requiring parent/guardian/custodian/representative signature.
4. POs may not give legal consent for a youth to engage in:
  - a. marriage;
  - b. obtaining a driver's license;
  - c. obtaining or contesting child custody;
  - d. giving a statement or being interviewed by a law enforcement officer;
  - e. obtaining emancipation;
  - f. living independently (except as provided in *YSD 6.2.101 Youth Placements*); and
  - g. enlisting in the military.

#### **IV. CLOSING:**

Questions concerning this procedure should be directed to the immediate supervisor.