

SENATE BILL NO. 170

INTRODUCED BY VAUGHN, DARKO, HARDING, YELLOWTAIL, CODY
BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE SENATE

JANUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

 FIRST READING.

JANUARY 31, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 1, 1991 PRINTING REPORT.

FEBRUARY 2, 1991 SECOND READING, DO PASS.

FEBRUARY 4, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 49; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

FEBRUARY 5, 1991 FIRST READING.

MARCH 12, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 13, 1991 SECOND READING, CONCURRED IN.

MARCH 14, 1991 THIRD READING, CONCURRED IN.
 AYES, 99; NOES, 1.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 16, 1991 RECEIVED FROM HOUSE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

MARCH 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *170*
 2 INTRODUCED BY *Vaughn Macko, Harding Yellowtail Crdy*
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING
 6 QUALIFICATIONS FOR SEXUAL OFFENDER EVALUATORS; PROVIDING FOR
 7 PAYMENT OF SEXUAL OFFENDER PRESENTENCE EVALUATIONS BY THE
 8 DEFENDANT OR DISTRICT COURT; AMENDING SECTION 46-18-111,
 9 MCA; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 46-18-111, MCA, is amended to read:

13 "46-18-111. Presentence investigation. (1) No A
 14 defendant convicted of an offense under 45-5-502 through
 15 45-5-505, 45-5-507, or 45-5-625 against a victim who was
 16 less than 16 years old when the offense was committed may
 17 not be sentenced or otherwise disposed of before a written
 18 report of investigation by a probation officer is presented
 19 to and considered by the court.

20 (2) The investigation must include an evaluation of the
 21 defendant and a recommendation as to treatment by a person
 22 qualified ~~by---professional---experience~~ under guidelines
 23 established by the Montana sex offender treatment
 24 association. All costs related to the evaluation must be
 25 paid by the defendant. If the defendant is determined by the

1 court to be indigent, all costs related to the evaluation
 2 are the responsibility of the district court.

3 (3) No A defendant convicted of any other offense that
 4 may result in commitment for 1 year or more in the state
 5 prison may not be sentenced or otherwise disposed of before
 6 a written report of investigation by a probation officer is
 7 presented to and considered by the court unless the court
 8 deems such report unnecessary.

9 (4) The court may, in its discretion, order a
 10 presentence investigation for a defendant convicted of any
 11 lesser crime or offense."

12 NEW SECTION. **Section 2.** Effective date. [This act] is
 13 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0170, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill for an act entitled: "An act establishing qualifications for sexual offender evaluators; providing for payment of sexual offender presentence evaluations by the defendant or district court; amending section 46-18-111, MCA; and providing an effective date."

ASSUMPTIONS:

1. A pre-sentence investigation on a defendant convicted of a sexual offense continues to be required.
2. A defendant will be required to pay for the costs of evaluation unless he/she is indigent. Then all costs will be the responsibility of the district court.
3. The District Court Reimbursement Program of the Department of Commerce and the Department of Institutions currently pay for these presentence evaluations. This bill clarifies eligibility for this expense.

FISCAL IMPACT:

Minimal fiscal impact.


ROD SUNDSTED, BUDGET DIRECTOR 1-26-91 DATE
Office of Budget and Program Planning


ELEANOR L. VAUGHN, PRIMARY SPONSOR 1/25/91 DATE

Fiscal Note for SB0170, as introduced

SB 170

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 170

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QUALIFICATIONS FOR SEXUAL OFFENDER EVALUATORS; PROVIDING FOR
PAYMENT OF SEXUAL OFFENDER PRESENTENCE EVALUATIONS BY THE
DEFENDANT OR DISTRICT COURT; PROVIDING REIMBURSEMENT FROM
THE STATE IF THE DISTRICT COURT PAYS; AMENDING SECTION
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not be sentenced or otherwise disposed of before a written
report of investigation by a probation officer is presented
to and considered by the court.

(2) The investigation must include an evaluation of the
defendant and a recommendation as to treatment by a person
qualified by ~~professional experience~~ under guidelines
established by the Montana sex offender treatment
association DEPARTMENT OF INSTITUTIONS. All costs related to

the evaluation must be paid by the defendant. If the
defendant is determined by the court to be indigent, all
costs related to the evaluation are the responsibility of
the district court, WHICH COSTS SHALL BE REIMBURSED BY THE
DEPARTMENT OF COMMERCE UNDER TITLE 3, CHAPTER 5, PART 9.

(3) No A defendant convicted of any other offense that
may result in commitment for 1 year or more in the state
prison may not be sentenced or otherwise disposed of before
a written report of investigation by a probation officer is
presented to and considered by the court unless the court
deems such report unnecessary.

(4) The court may, in its discretion, order a
presentence investigation for a defendant convicted of any
lesser crime or offense."

NEW SECTION. Section 2. Effective date. [This act] is
effective July 1, 1991.

-End-

SECOND READING

SENATE BILL NO. 170

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BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

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(2) The investigation must include an evaluation of the defendant and a recommendation as to treatment by a person qualified by--professional--experience under guidelines established by the Montana---sex---offender--treatment association DEPARTMENT OF INSTITUTIONS. All costs related to

the evaluation must be paid by the defendant. If the defendant is determined by the court to be indigent, all costs related to the evaluation are the responsibility of the district court, WHICH COSTS SHALL BE REIMBURSED BY THE DEPARTMENT OF COMMERCE UNDER TITLE 3, CHAPTER 5, PART 9.

(3) No A defendant convicted of any other offense that may result in commitment for 1 year or more in the state prison may not be sentenced or otherwise disposed of before a written report of investigation by a probation officer is presented to and considered by the court unless the court deems such report unnecessary.

(4) The court may, in its discretion, order a presentence investigation for a defendant convicted of any lesser crime or offense."

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1991.

-End-

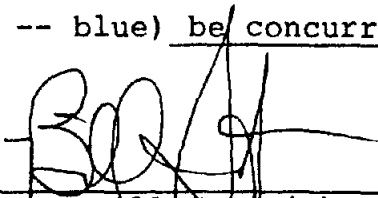
THIRD READING

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 170 (third reading copy -- blue) be concurred in as amended .

Signed: 

Bill Strizich, Chairman

Carried by: Rep. Cody

And, that such amendments read:

1. Page 2.

Following: line 14

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 51 is passed and approved and if it includes a section amending 46-18-111, then 46-18-111 is amended by the insertion of the following language at the end of subsection (1) of 46-18-111 and [section 1 of this act] is void:

"The investigation must include an evaluation of the defendant and a recommendation as to treatment by a person qualified under guidelines established by the department of institutions. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the department of commerce under Title 3, chapter 5, part 9." "

Renumber: subsequent section

HOUSE
SB 170

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the district court, WHICH COSTS SHALL BE REIMBURSED BY THE
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(3) No A defendant convicted of any other offense that
may result in commitment for 1 year or more in the state
prison may not be sentenced or otherwise disposed of before
a written report of investigation by a probation officer is
presented to and considered by the court unless the court
deems such report unnecessary.

(4) The court may, in its discretion, order a
presentence investigation for a defendant convicted of any
lesser crime or offense."

NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF
SENATE BILL NO. 51 IS PASSED AND APPROVED AND IF IT INCLUDES
A SECTION AMENDING 46-18-111, THEN 46-18-111 IS AMENDED BY
THE INSERTION OF THE FOLLOWING LANGUAGE AT THE END OF
SUBSECTION (1) OF 46-18-111 AND [SECTION 1 OF THIS ACT] IS
VOID:

"THE INVESTIGATION MUST INCLUDE AN EVALUATION OF THE
DEPENDANT AND A RECOMMENDATION AS TO TREATMENT BY A PERSON
QUALIFIED UNDER GUIDELINES ESTABLISHED BY THE DEPARTMENT OF
INSTITUTIONS. ALL COSTS RELATED TO THE EVALUATION MUST BE
PAID BY THE DEFENDANT. IF THE DEPENDANT IS DETERMINED BY THE



1 COURT TO BE INDIGENT, ALL COSTS RELATED TO THE EVALUATION
2 ARE THE RESPONSIBILITY OF THE DISTRICT COURT AND MUST BE
3 PAID BY THE DEPARTMENT OF COMMERCE UNDER TITLE 3, CHAPTER 5,
4 PART 9."

5 NEW SECTION. Section 3. Effective date. [This act] is
6 effective July 1, 1991.

-End-