

SENATE BILL 344

Introduced by Waterman

2/09 Introduced
2/09 Referred to Judiciary
2/09 First Reading
2/20 Hearing
2/22 Committee Report--Bill Passed as Amended
2/23 2nd Reading Passed
2/24 3rd Reading Passed

Transmitted to House
3/01 Referred to Judiciary
3/01 First Reading
3/17 Hearing
3/19 Committee Report--Bill Concurred as Amended
3/27 2nd Reading Concurred
3/30 3rd Reading Concurred

Returned to Senate with Amendments
4/02 2nd Reading Amendments Concurred
4/03 3rd Reading Amendments Concurred
4/07 Signed by the President
4/07 Signed by Speaker
4/13 Transmitted to Governor
4/16 Signed by Governor
Chapter Number 347
Effective Date: 04/16/93

1 Senate BILL NO. 344
 2 INTRODUCED BY Major Waterman
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 5 CONDITIONS IN WHICH SPECIAL PROFESSIONAL EVALUATIONS ARE
 6 REQUIRED IN THE PREPARATION OF PRESENTENCE INVESTIGATIONS;
 7 CLARIFYING THE ENTITY RESPONSIBLE FOR THE COST OF
 8 EVALUATIONS; AMENDING SECTION 46-18-111, MCA; AND PROVIDING
 9 AN IMMEDIATE 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 -- when required.
 14 (1) Upon the acceptance of a plea or upon a verdict or
 15 finding of guilty to one or more felony offenses an offense
 16 under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625
 17 involving a victim who was less than 16 years of age when
 18 the offense was committed, the district court shall direct
 19 the probation officer to make a presentence investigation
 20 and report. The district court may, in its discretion, order
 21 a shall consider the presentence investigation report for a
 22 defendant convicted of a misdemeanor prior to sentencing.
 23 The Unless ordered otherwise, the investigation must include
 24 an evaluation of the defendant and a recommendation as to
 25 treatment of the offender in the least restrictive

1 environment, considering community safety and offender
 2 needs. The evaluation must be completed by a person who is
 3 determined to be qualified under guidelines established by
 4 the department of corrections and human services. All costs
 5 related to the evaluation must be paid by the defendant. If
 6 the defendant is determined by the court to be indigent, all
 7 costs related to the evaluation are the responsibility of
 8 the district court and must be paid by the department of
 9 commerce county or the state, or both, under Title 3,
 10 chapter 5, part 9.

11 (2) if the court finds that the record contains
 12 information sufficient to enable the meaningful exercise of
 13 discretion during sentencing, the defendant may waive a
 14 presentence investigation and report. Both the finding and
 15 the defendant's waiver must be made in open court on the
 16 record. Unless the court makes a finding that a report is
 17 unnecessary, a defendant convicted of any offense not
 18 enumerated in subsection (1) that may result in
 19 incarceration for 1 year or more may not be sentenced before
 20 a written presentence investigation report by a probation
 21 officer is presented to and considered by the court. The
 22 court may, in its discretion, order a presentence
 23 investigation for a defendant convicted of a misdemeanor."

24 **NEW SECTION. Section 2.** Effective date. [This act] is
 25 effective on passage and approval.

-End-
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SB 344
 INTRODUCED BILL

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 344

INTRODUCED BY WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE CONDITIONS IN WHICH SPECIAL PROFESSIONAL EVALUATIONS ARE REQUIRED IN THE PREPARATION OF PRESENTENCE INVESTIGATIONS; CLARIFYING THE ENTITY RESPONSIBLE FOR THE COST OF EVALUATIONS; AMENDING SECTION 46-18-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 46-18-111, MCA, is amended to read:**"46-18-111. Presentence investigation -- when required.**

(1) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses an offense under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than 16 years of age when the offense was committed ONE OR MORE FELONY OFFENSES, the district court shall direct the probation officer to make a presentence investigation and report. The district court may, in its discretion, order a shall consider the presentence investigation report for a defendant convicted of a misdemeanor prior to sentencing. The Unless ordered otherwise, the IF THE DEFENDANT WAS CONVICTED OF AN OFFENSE UNDER 45-5-502 THROUGH 45-5-505, 45-5-507, OR 45-5-625

INVOLVING A VICTIM WHO WAS LESS THAN 16 YEARS OF AGE WHEN THE OFFENSE WAS COMMITTED, THE investigation must include an evaluation of the defendant and a recommendation as to treatment of the offender in the least restrictive environment, considering community safety and offender needs. The evaluation must be completed by a person who is determined to be qualified under guidelines established by the department of corrections and human services. 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 county or the state, or both, under Title 3, chapter 5, part 9.

(2) if the court finds that the record contains information sufficient to enable the meaningful exercise of discretion during sentencing, the defendant may waive a presentence investigation and report. Both the finding and the defendant's waiver must be made in open court on the record. Unless the court makes a finding that a report is unnecessary, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation officer is presented to and considered by the court. The

1 court may, in its discretion, order a presentence
2 investigation for a defendant convicted of a misdemeanor."

3 NEW SECTION. Section 2. Effective date. [This act] is
4 effective on passage and approval.

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

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

"46-18-111. Presentence investigation -- when required.

(1) Upon the acceptance of a plea or upon a verdict or finding of guilty to one-or-more-felony-offenses an offense under--45-5-502--through--45-5-505,--45-5-507,--or--45-5-625 involving-a-victim-who-was-less-than-16-years--of--age--when the--offense--was-committed ONE OR MORE FELONY OFFENSES, the district court shall direct the probation officer to make a presentence investigation and report. The district court may,--in--its--discretion,--order--a shall consider the presentence investigation report for-a-defendant-convicted of-a-misdemeanor prior to sentencing. The Unless--ordered otherwise,--the IF THE DEFENDANT WAS CONVICTED OF AN OFFENSE UNDER 45-5-502 THROUGH 45-5-505, 45-5-507, OR 45-5-625

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(2) if--the--court--finds--that--the--record--contains information-sufficient-to-enable-the-meaningful-exercise--of discretion--during--sentencing,--the--defendant--may-waive-a presentence-investigation-and-report--Both-the--finding--and the--defendant's--waiver--must--be-made-in-open-court-on-the record. Unless the court makes a finding that a report is unnecessary, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation officer is presented to and considered by the court. The

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1 court may, in its discretion, order a presentence
2 investigation for a defendant convicted of a misdemeanor."

3 NEW SECTION. Section 2. Effective date. [This act] is
4 effective on passage and approval.

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45-5-507, OR 45-5-625 INVOLVING A VICTIM WHO WAS LESS THAN 16 YEARS OF AGE WHEN THE OFFENSE WAS COMMITTED, THE investigation must include an evaluation of the defendant and a recommendation as to treatment of the offender in the least restrictive environment, considering community safety and offender needs. The evaluation must be completed by a person who is determined to be qualified under guidelines established by the department of corrections and human services. 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 county or the state, or both, under Title 3, chapter 5, part 9.

(2) If---the--court--finds--that--the--record--contains information-sufficient-to-enable-the-meaningful-exercise--of discretion--during--sentencing,--the--defendant--may-waive-a presentence-investigation-and-report,--Both-the--finding--and the--defendant's--waiver--must--be-made-in-open-court-on-the record. Unless the DISTRICT court makes a finding that a report is unnecessary, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation officer is presented to and considered by the DISTRICT

1 court. The DISTRICT court may, in its discretion, order a
2 presentence investigation for a defendant convicted of a
3 misdemeanor."

4 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF
5 SENATE BILL NO. 125 IS PASSED AND APPROVED AND IF IT AMENDS
6 46-18-111 BY:

7 (1) INSERTING IN SUBSECTION (1) THE WORDS "AGAINST A
8 VICTIM", THEN THE WORD "AGAINST" IS CHANGED TO "INVOLVED";

9 (2) SUBSTITUTING IN SUBSECTION (1) THE WORDS "SUPREME
10 COURT ADMINISTRATOR" FOR THE WORDS "DEPARTMENT OF COMMERCE",
11 THEN THE WORDS "SUPREME COURT ADMINISTRATOR" ARE CHANGED TO
12 "COUNTY OR THE STATE, OR BOTH,";

13 (3) INSERTING THE WORD "DISTRICT" BEFORE THE WORD
14 "COURT" NEAR THE BEGINNING OF THE FIRST SENTENCE OF
15 SUBSECTION (2), THEN THE WORD "DISTRICT" IS STRICKEN.

16 NEW SECTION. Section 3. Effective date. [This act] is
17 effective on passage and approval.

-End-