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

LC 1208/01

INTRODUCED BY Mignor 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:

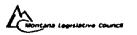
7 CLARIFYING THE ENTITY RESPONSIBLE FOR THE COST OF
8 EVALUATIONS; AMENDING SECTION 46-18-111, MCA; AND PROVIDING
9 AN IMMEDIATE EFFECTIVE DATE."

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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. (1) Upon the acceptance of a plea or upon a verdict or 14 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 mayy-in-its-discretiony-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) Ifthecourtfindsthattherecordcontains
12	information-sufficient-to-enable-the-meaningful-exerciseof
13	discretionduringsentencing;thedefendantmay-waive-a
14	presentence-investigation-and-reportBoth-thefindingand
15	thedefendant'swaivermustbe-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.



APPROVED BY COMMITTEE ON JUDICIARY

1	SENATE BILL NO. 344
2	INTRODUCED BY WATERMAN
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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."

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

Section 1. Section 46-18-111, MCA, is amended to read: 12 *46-18-111, Presentence investigation -- when required. 13 (1) Upon the acceptance of a plea or upon a verdict or 14 finding of guilty to one-or-more-fetony-offenses an-offense 15 under--45-5-502--through--45-5-5057--45-5-5077--0r--45-5-625 16 17 involving-a-victim-who-was-less-than-16-years--of--age--when the--offense--was-committed ONE OR MORE FELONY OFFENSES, the 18 district court shall direct the probation officer to make a 19 presentence investigation and report. The district court 20 21 may --- in--its--discretion -- order-- shall consider the presentence investigation report for-a-defendant-convicted 22 of-a-misdemeanor prior to sentencing. The Unless--ordered 23 otherwise---the IF THE DEFENDANT WAS CONVICTED OF AN OFFENSE 24 25 UNDER 45-5-502 THROUGH 45-5-505, 45-5-507, OR 45-5-625



l	INVOLVING A VICTIM WHO WAS LESS THAN 16 YEARS OF AGE WHEN
2	THE OFFENSE WAS COMMITTED, THE investigation must include an
3	evaluation of the defendant and a recommendation as to
4	treatment of the offender in the least restrictive
5	environment, considering community safety and offender
6	needs. The evaluation must be completed by a person who is
7	determined to be qualified under guidelines established by
8	the department of corrections and human services. All costs
9	related to the evaluation must be paid by the defendant. If
10	the defendant is determined by the court to be indigent, all
11	costs related to the evaluation are the responsibility of
12	the district court and must be paid by the department-of
13	commerce county or the state, or both, under Title 3,
14	chapter 5, part 9.
15	(2) Ifthecourtfindsthattherecordcontains
16	information-sufficient-to-enable-the-meaningful-exerciseof
17	discretionduringsentencing;thedefendantmay-waive-a
18	presentence-investigation-and-reportBoth-thefindingand
19	thedefendant'swaivermustbe-made-in-open-court-on-the
20	record: Unless the court makes a finding that a report is
21	unnecessary, a defendant convicted of any offense not
22	enumerated in subsection (1) that may result in
23	incarceration for 1 year or more may not be sentenced before
24	a written presentence investigation report by a probation
25	officer is presented to and considered by the court. The

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SECOND READING

SB 344

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

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

-End-

SB 0344/02

SENATE BILL NO. 344 1 2 INTRODUCED BY WATERMAN 3 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE 4 CONDITIONS IN WHICH SPECIAL PROFESSIONAL EVALUATIONS ARE 5 REQUIRED IN THE PREPARATION OF PRESENTENCE INVESTIGATIONS; 6 CLARIFYING THE ENTITY RESPONSIBLE FOR THE COST 7 OF 8 EVALUATIONS: AMENDING SECTION 46-18-111, MCA; AND PROVIDING 9 AN IMMEDIATE EFFECTIVE DATE." 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 46-18-111, MCA, is amended to read: 12 13 "46-18-111. Presentence investigation -- when required. (1) Upon the acceptance of a plea or upon a verdict or 14 15 finding of guilty to one-or-more-fetony-offenses an-offense 16 under--45-5-502--through--45-5-5057--45-5-5077--or--45-5-625 involving-a-victim-who-was-less-than-16-years--of--age--when 17 18 the--offense--was-committed ONE OR MORE FELONY OFFENSES, the district court shall direct the probation officer to make a 19 20 presentence investigation and report. The district court 21 mayy--in--its--discretiony--order--a shall consider the 22 presentence investigation report for-a-defendant-convicted 23 of-a-misdemeanor prior to sentencing. The Unless--ordered 24 otherwise7--the IF THE DEFENDANT WAS CONVICTED OF AN OFFENSE 25 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 1 THE OFFENSE WAS COMMITTED, THE investigation must include an 2 evaluation of the defendant and a recommendation as to 3 treatment of the offender in the least restrictive A 5 environment, considering community safety and offender needs. The evaluation must be completed by a person who is б determined to be qualified under guidelines established by 7 8 the department of corrections and human services. All costs 9 related to the evaluation must be paid by the defendant. If 10 the defendant is determined by the court to be indigent, all 11 costs related to the evaluation are the responsibility of 12 the district court and must be paid by the department-of commerce county or the state, or both, under Title 3, 13 chapter 5, part 9. 14 (2) If---the--court--finds--that--the--record--contains 15 16 information-sufficient-to-enable-the-meaningful-exercise--of 17 discretion--during--sentencing;--the--defendant--may-waive-a 18 presentence-investigation-and-report--Both-the--finding--and 19 the--defendant's--waiver--must--be-made-in-open-court-on-the 20 record. Unless the court makes a finding that a report is 21 unnecessary, a defendant convicted of any offense not enumerated in subsection (1) that may result in 22 23 incarceration for 1 year or more may not be sentenced before 24 a written presentence investigation report by a probation 25 officer is presented to and considered by the court. The

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THIRD READING

SB 344

Montana Legislative Council

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.

-End-

1	SENATE BILL NO. 344
2	INTRODUCED BY WATERMAN
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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."
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11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 45-18-111, 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 <u>an-offense</u>
16	under45-5-502through45-5-505745-5-5077or45-5-625
17	<u>involving-a-victim-who-was-less-than-16-yearsofagewhen</u>
18	theoffensewas-committed ONE OR MORE FELONY OFFENSES, the
19	district court shall direct the probation officer to make a
20	presentence investigation and report. The district court
21	may,initsdiscretion,ordera shall consider the
22	presentence investigation report for-a-defendant-convicted
23	of-a-misdemeanor prior to sentencing. The Unlessordered
24	otherwise,the IF THE DEFENDANT WAS CONVICTED OF AN OFFENSE
25	UNDER 45-5-502 PHROUGH, 45-5-503, 45-5-504, 45-5 -505,

1 45-5-507, OR 45-5-625 INVOLVING A VICTIM WHO WAS LESS THAN 2 16 YEARS OF AGE WHEN THE OFFENSE WAS COMMITTED, THE 3 investigation must include an evaluation of the defendant and a recommendation as to treatment of the offender in the 4 5 least restrictive environment, considering community safety 6 and offender needs. The evaluation must be completed by a 7 person who is determined to be qualified under guidelines 8 established by the department of corrections and human 9 services. All costs related to the evaluation must be paid 10 by the defendant. If the defendant is determined by the 11 court to be indigent, all costs related to the evaluation 12 are the responsibility of the district court and must be 13 paid by the department-of-commerce county or the state, or both, under Title 3, chapter 5, part 9. 14 15 (2) If---the--court--finds--that--the--record--contains 16 information-sufficient-to-enable-the-meaningful-exercise--of 17 discretion--during--sentencingy--the--defendant--may-waive-a 18 presentence-investigation-and-report-Both-the--finding--and 19 the--defendant's--waiver--must--be-made-in-open-court-on-the 20 record. Unless the DISTRICT court makes a finding that a 21 report is unnecessary, a defendant convicted of any offense 22 not enumerated in subsection (1) that may result in 23 incarceration for 1 year or more may not be sentenced before 24 a written presentence investigation report by a probation 25 officer is presented to and considered by the DISTRICT

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REFERENCE BILL AS AMENDED

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1 court. The DISTRICT court may, in its discretion, order a presentence investigation for a defendant convicted of a 2 3 misdemeanor." NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF 4 5 SENATE BILL NO. 125 IS PASSED AND APPROVED AND IF IT AMENDS б 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 "COURT" NEAR THE BEGINNING OF THE FIRST SENTENCE OF 14 15 SUBSECTION (2), THEN THE WORD "DISTRICT" IS STRICKEN. NEW SECTION. Section 3. Effective date. [This act] is 16

17 effective on passage and approval.

-End-