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INTRODUCED BY Kathel House BILL NO. 268

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 180 days;
- (iii) conditions for probation;
- (iv) payment of the costs of confinement;
- (v) payment of a fine as provided in 46-18-231;
- (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- (viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;
- (ix) community service;
- (x) home arrest as provided in Title 46, chapter 18, part 10;
- (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;

1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;  
2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
12 the defendant to the department of corrections for placement in an appropriate correctional institution or  
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community  
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
30 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),

1 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

2 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
3 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

4 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
5 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
6 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
7 suspended.

8 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
9 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
10 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

11 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
12 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
13 Title 46, chapter 23, part 5.

14 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
15 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
16 program. If recommended by the department of corrections and included in the sentence, the person shall  
17 also undergo medroxyprogesterone acetate treatment or its chemical equivalent for a period of time  
18 determined by the department of corrections. The period may not exceed the period of state supervision  
19 of the person.

20 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
21 imprisonment of the offender in the state prison, including placement of the offender in a community  
22 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
23 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
24 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
25 not selected, based on the criteria contained in 46-18-225.

26 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
27 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

28 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
29 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
30 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.

- 1 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
2 period of the deferred imposition. Reasonable restrictions or conditions may include:
- 3 (i) jail base release;
  - 4 (ii) jail time not exceeding 180 days;
  - 5 (iii) conditions for probation;
  - 6 (iv) payment of the costs of confinement;
  - 7 (v) payment of a fine as provided in 46-18-231;
  - 8 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
  - 9 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
  - 10 (viii) with the approval of the facility or program, an order that the offender be placed in a  
11 community corrections facility or program as provided in 53-30-321;
  - 12 (ix) community service;
  - 13 (x) home arrest as provided in Title 46, chapter 18, part 10;
  - 14 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
15 society;
  - 16 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 17 or
- 18 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 19 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
20 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
21 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
22 restrictions or conditions may include any of those listed in subsection (1)(a).
- 23 (c) impose a fine as provided by law for the offense;
  - 24 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
25 counsel as provided in 46-8-113;
  - 26 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
27 the defendant to the department of corrections for placement in an appropriate correctional institution or  
28 program;
  - 29 (f) with the approval of the facility or program, order the offender to be placed in a community  
30 corrections facility or program as provided in 53-30-321; or

1 (g) impose any combination of subsections (1)(b) through (1)(f).

2 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
3 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
4 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
5 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

6 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
7 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
8 a felony, regardless of whether any other conditions are imposed.

9 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
10 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
11 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
12 allowed for jail or home arrest time already served.

13 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
14 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
15 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
16 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

17 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
18 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

19 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
20 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
21 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
22 suspended.

23 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
24 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
25 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

26 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
27 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
28 Title 46, chapter 23, part 5.

29 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
30 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual

1 offender program. If recommended by the department of corrections and included in the sentence, the  
2 person shall also undergo medroxyprogesterone acetate treatment or its chemical equivalent for a period  
3 of time determined by the department of corrections. The period may not exceed the period of state  
4 supervision of the person.

5 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
6 imprisonment of the offender in the state prison, including placement of the offender in a community  
7 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
8 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
9 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
10 not selected, based on the criteria contained in 46-18-225.

11 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
12 not apply to a person sentenced under 46-18-219."

13

14 **NEW SECTION. Section 2. Application.** [This act] applies to offenses committed after October  
15 1, 1997.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0268, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for medroxyprogesterone acetate treatment or its chemical equivalent for certain sex offenders; and providing an applicability date.

ASSUMPTIONS:

1. Cost per inmate for Depo-Provera treatment is \$131 per week for an annual cost of \$6,812. Medical monitoring costs of \$300 for preliminary clearance and \$50 for each of 3 quarterly monitoring visit would also be incurred. Total annual cost per inmate would be \$7,262.
2. This bill applies to offenses committed after 10/1/97. Because of the time between commission of offense and start of incarceration, the Department of Corrections (DOC) assumes that there will be no costs incurred during fiscal year 1998.
3. Assume that this bill only applies to those offenders sentenced to prison. In fiscal year 1996 there were 100 admissions to prison for sexual offenses covered under this bill.
4. This bill only applies to offenders who the DOC recommends for treatment and the judge sentences for such treatment. The DOC assumes that this will be 25% of the offenders who are sentenced to prison.
5. The treatment costs for the offenders will be incurred while they are under DOC supervision and will begin upon admission to prison.
6. In fiscal year 1999 the DOC estimates it will provide treatment for 25 inmates at a cost \$181,550.

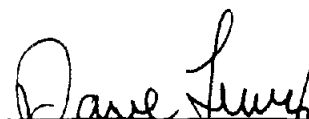
FISCAL IMPACT:

Department of Corrections:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Treatment costs	0	181,550
<u>Funding:</u>		
General Fund (01)	0	181,550

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cost of this bill in future years will increase linearly because the treatment costs will continue while the inmate is under DOC supervision. In fiscal year 2006, the cost of this bill based on current data (without any inflation factor for the cost of treatment) could be as much as \$1,452,400.

 1-20-97  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

DEB KOTTEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0268, as introduced

HB 268

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*House* BILL NO. *268*

INTRODUCED BY *Kathel*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
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- (iii) conditions for probation;
- (iv) payment of the costs of confinement;
- (v) payment of a fine as provided in 46-18-231;
- (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- (viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;
- (ix) community service;
- (x) home arrest as provided in Title 46, chapter 18, part 10;
- (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;



1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
12 the defendant to the department of corrections for placement in an appropriate correctional institution or  
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community  
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
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2 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
3 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

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5 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
6 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
7 suspended.

8 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
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10 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

11 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
12 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
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14 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
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4 (ii) jail time not exceeding 180 days;

5 (iii) conditions for probation;

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11 community corrections facility or program as provided in 53-30-321;

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14 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
15 society;

16 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

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18 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

19 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
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21 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
22 restrictions or conditions may include any of those listed in subsection (1)(a).

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27 the defendant to the department of corrections for placement in an appropriate correctional institution or  
28 program;

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30 corrections facility or program as provided in 53-30-321; or

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16 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

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11 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
12 not apply to a person sentenced under 46-18-219."

13

14 **NEW SECTION. Section 2. Application.** [This act] applies to offenses committed after October  
15 1, 1997.

16

-END-

## 1 HOUSE BILL NO. 268

2 INTRODUCED BY KOTTEL

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE  
5 TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION  
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7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9  
10 **Section 1.** Section 46-18-201, MCA, is amended to read:

11 **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
12 guilty of an offense upon a verdict or a plea of guilty, the court may:

13 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
14 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
15 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
16 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
17 period of the deferred imposition. Reasonable restrictions or conditions may include:

18 (i) jail base release;

19 (ii) jail time not exceeding 180 days;

20 (iii) conditions for probation;

21 (iv) payment of the costs of confinement;

22 (v) payment of a fine as provided in 46-18-231;

23 (vi) payment of costs as provided in 46-18-232 and 46-18-233;

24 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;

25 (viii) with the approval of the facility or program, an order that the offender be placed in a  
26 community corrections facility or program as provided in 53-30-321;

27 (ix) community service;

28 (x) home arrest as provided in Title 46, chapter 18, part 10;

29 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
30 society;

1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
12 the defendant to the department of corrections for placement in an appropriate correctional institution or  
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community  
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
30 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),

1 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

2 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
3 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

4 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
5 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
6 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
7 suspended.

8 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
9 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
10 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

11 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
12 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
13 Title 46, chapter 23, part 5.

14 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
15 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
16 program. If recommended by the department of corrections and included in the sentence, the person shall  
17 also undergo MEDICALLY SAFE medroxyprogesterone acetate treatment or its chemical equivalent OR  
18 OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL FANTASIES, SEX DRIVE, OR  
19 BOTH, PAID FOR BY AND for a period of time determined by the department of corrections. The period may  
20 not exceed the period of state supervision of the person.

21 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
22 imprisonment of the offender in the state prison, including placement of the offender in a community  
23 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
24 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
25 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
26 not selected, based on the criteria contained in 46-18-225.

27 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
28 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

29 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
30 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise



- 1 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
2 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
3 period of the deferred imposition. Reasonable restrictions or conditions may include:
- 4 (i) jail base release;
  - 5 (ii) jail time not exceeding 180 days;
  - 6 (iii) conditions for probation;
  - 7 (iv) payment of the costs of confinement;
  - 8 (v) payment of a fine as provided in 46-18-231;
  - 9 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
  - 10 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
  - 11 (viii) with the approval of the facility or program, an order that the offender be placed in a  
12 community corrections facility or program as provided in 53-30-321;
  - 13 (ix) community service;
  - 14 (x) home arrest as provided in Title 46, chapter 18, part 10;
  - 15 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
16 society;
  - 17 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 18 or
- 19 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 20 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
21 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
22 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
23 restrictions or conditions may include any of those listed in subsection (1)(a).
- 24 (c) impose a fine as provided by law for the offense;
  - 25 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
26 counsel as provided in 46-8-113;
  - 27 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
28 the defendant to the department of corrections for placement in an appropriate correctional institution or  
29 program;
  - 30 (f) with the approval of the facility or program, order the offender to be placed in a community

1 corrections facility or program as provided in 53-30-321; or

2 (g) impose any combination of subsections (1)(b) through (1)(f).

3 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
4 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
5 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
6 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

7 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
8 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
9 a felony, regardless of whether any other conditions are imposed.

10 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
11 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
12 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
13 allowed for jail or home arrest time already served.

14 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
15 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
16 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
17 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

18 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
19 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

20 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
21 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
22 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
23 suspended.

24 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
25 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
26 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

27 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
28 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
29 Title 46, chapter 23, part 5.

30 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to

1 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
2 offender program. If recommended by the department of corrections and included in the sentence, the  
3 person shall also undergo MEDICALLY SAFE medroxyprogesterone acetate treatment or its chemical  
4 equivalent OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL FANTASIES, SEX  
5 DRIVE, OR BOTH, PAID FOR BY AND for a period of time determined by the department of corrections. The  
6 period may not exceed the period of state supervision of the person.

7 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
8 imprisonment of the offender in the state prison, including placement of the offender in a community  
9 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
10 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
11 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
12 not selected, based on the criteria contained in 46-18-225.

13 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
14 not apply to a person sentenced under 46-18-219."

15

16 **NEW SECTION. Section 2. Application.** [This act] applies to offenses committed after October  
17 1, 1997.

18

-END-

HOUSE BILL NO. 268

INTRODUCED BY KOTTEL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 180 days;
- (iii) conditions for probation;
- (iv) payment of the costs of confinement;
- (v) payment of a fine as provided in 46-18-231;
- (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- (viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;
- (ix) community service;
- (x) home arrest as provided in Title 46, chapter 18, part 10;
- (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;

1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
12 the defendant to the department of corrections for placement in an appropriate correctional institution or  
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community  
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
30 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),

1 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

2 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
3 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

4 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
5 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
6 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
7 suspended.

8 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
9 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
10 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

11 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
12 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
13 Title 46, chapter 23, part 5.

14 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
15 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
16 program. ~~If recommended by the department of corrections and included in the sentence~~ [THE PERSON  
17 IS SUBJECT TO THE PROVISIONS OF [SECTION 1 OF SENATE BILL NO. 31]], the person shall also[, AS  
18 PROVIDED IN [SECTION 1 OF SENATE BILL NO. 31],] undergo MEDICALLY SAFE medroxyprogesterone  
19 acetate treatment or its chemical equivalent OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT  
20 REDUCES SEXUAL FANTASIES, SEX DRIVE, OR BOTH, PAID FOR BY AND for a period of time determined  
21 by the department of corrections. The period may not exceed the period of state supervision of the person.

22 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
23 imprisonment of the offender in the state prison, including placement of the offender in a community  
24 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
25 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
26 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
27 not selected, based on the criteria contained in 46-18-225.

28 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
29 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

30 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for

1 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
2 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.

3 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
4 period of the deferred imposition. Reasonable restrictions or conditions may include:

5 (i) jail base release;

6 (ii) jail time not exceeding 180 days;

7 (iii) conditions for probation;

8 (iv) payment of the costs of confinement;

9 (v) payment of a fine as provided in 46-18-231;

10 (vi) payment of costs as provided in 46-18-232 and 46-18-233;

11 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;

12 (viii) with the approval of the facility or program, an order that the offender be placed in a  
13 community corrections facility or program as provided in 53-30-321;

14 (ix) community service;

15 (x) home arrest as provided in Title 46, chapter 18, part 10;

16 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
17 society;

18 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

19 or

20 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

21 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
22 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
23 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
24 restrictions or conditions may include any of those listed in subsection (1)(a).

25 (c) impose a fine as provided by law for the offense;

26 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
27 counsel as provided in 46-8-113;

28 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
29 the defendant to the department of corrections for placement in an appropriate correctional institution or  
30 program;

1 (f) with the approval of the facility or program, order the offender to be placed in a community  
2 corrections facility or program as provided in 53-30-321; or

3 (g) impose any combination of subsections (1)(b) through (1)(f).

4 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
5 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
6 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
7 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

8 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
9 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
10 a felony, regardless of whether any other conditions are imposed.

11 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
12 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
13 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
14 allowed for jail or home arrest time already served.

15 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
16 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
17 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
18 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

19 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
20 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

21 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
22 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
23 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
24 suspended.

25 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
26 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
27 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

28 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
29 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
30 Title 46, chapter 23, part 5.



1 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
 2 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
 3 offender program. ~~If recommended by the department of corrections and included in the sentence~~ [THE  
 4 PERSON IS SUBJECT TO THE PROVISIONS OF [SECTION 1 OF SENATE BILL NO. 31]], the person shall  
 5 also[, AS PROVIDED IN [SECTION 1 OF SENATE BILL NO. 31],] undergo MEDICALLY SAFE  
 6 medroxyprogesterone acetate treatment or its chemical equivalent OR OTHER MEDICALLY SAFE DRUG  
 7 TREATMENT THAT REDUCES SEXUAL FANTASIES, SEX DRIVE, OR BOTH, PAID FOR BY AND for a period  
 8 of time determined by the department of corrections. The period may not exceed the period of state  
 9 supervision of the person.

10 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
 11 imprisonment of the offender in the state prison, including placement of the offender in a community  
 12 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
 13 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
 14 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
 15 not selected, based on the criteria contained in 46-18-225.

16 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
 17 not apply to a person sentenced under 46-18-219."

18  
 19 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. (1) IF [SECTION 1] OF SENATE  
 20 BILL NO. 31 IS NOT PASSED AND APPROVED, THEN THE BRACKETED LANGUAGE IN THAT PART OF  
 21 [SECTION 1 OF THIS ACT] THAT AMENDS 46-18-201(10), IN BOTH VERSIONS, IS VOID AND THE  
 22 PHRASE "RECOMMENDED BY THE DEPARTMENT OF CORRECTIONS AND INCLUDED IN THE SENTENCE"  
 23 MUST BE REINSERTED.

24 (2) IF [SECTION 1] OF SENATE BILL NO. 31 IS PASSED AND APPROVED, THEN:

25 (A) THE WORDS "MEDICALLY SAFE" ARE INSERTED AFTER "SENTENCED TO UNDERGO" IN  
 26 EACH PLACE IN WHICH THAT PHRASE APPEARS IN SUBSECTIONS (1) THROUGH (3) OF [SECTION 1]  
 27 OF SENATE BILL NO. 31;

28 (B) THE WORDS "OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL  
 29 FANTASIES, SEX DRIVE, OR BOTH" ARE INSERTED AFTER THE WORD "EQUIVALENT" IN EACH PLACE  
 30 IN WHICH "EQUIVALENT" APPEARS IN SUBSECTIONS (1) AND (2) OF [SECTION 1] OF SENATE BILL NO.

1 31; AND

2 (C) THE WORDS "OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL  
3 FANTASIES, SEX DRIVE, OR BOTH," ARE INSERTED AFTER THE WORD "EQUIVALENT" IN SUBSECTION  
4 (3) OF [SECTION 1] OF SENATE BILL NO. 31.

5

6 NEW SECTION. Section 3. Application. [This act] applies to offenses committed after October  
7 1, 1997.

8

-END-

## 1 HOUSE BILL NO. 268

2 INTRODUCED BY KOTTEL

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE  
5 TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION  
6 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE."  
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
9

10 **Section 1.** Section 46-18-201, MCA, is amended to read:

11 **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
12 guilty of an offense upon a verdict or a plea of guilty, the court may:

13 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
14 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
15 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
16 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
17 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 18 (i) jail base release;  
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20 (iii) conditions for probation;  
21 (iv) payment of the costs of confinement;  
22 (v) payment of a fine as provided in 46-18-231;  
23 (vi) payment of costs as provided in 46-18-232 and 46-18-233;  
24 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;  
25 (viii) with the approval of the facility or program, an order that the offender be placed in a  
26 community corrections facility or program as provided in 53-30-321;  
27 (ix) community service;  
28 (x) home arrest as provided in Title 46, chapter 18, part 10;  
29 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
30 society;

1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
12 the defendant to the department of corrections for placement in an appropriate correctional institution or  
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community  
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
30 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),

1 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

2 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
3 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

4 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
5 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
6 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
7 suspended.

8 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
9 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
10 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

11 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
12 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
13 Title 46, chapter 23, part 5.

14 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
15 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
16 program. ~~If recommended by the department of corrections and included in the sentence~~ [THE PERSON  
17 IS SUBJECT TO THE PROVISIONS OF [SECTION 1 OF SENATE BILL NO. 31]], the person shall also, AS  
18 PROVIDED IN [SECTION 1 OF SENATE BILL NO. 31], undergo MEDICALLY SAFE medroxyprogesterone  
19 acetate treatment or its chemical equivalent OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT  
20 REDUCES SEXUAL FANTASIES, SEX DRIVE, OR BOTH, PAID FOR BY AND for a period of time determined  
21 by the department of corrections. The period may not exceed the period of state supervision of the person.

22 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
23 imprisonment of the offender in the state prison, including placement of the offender in a community  
24 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
25 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
26 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
27 not selected, based on the criteria contained in 46-18-225.

28 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
29 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

30 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for

- 1 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
2 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
3 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
4 period of the deferred imposition. Reasonable restrictions or conditions may include:
- 5 (i) jail base release;
  - 6 (ii) jail time not exceeding 180 days;
  - 7 (iii) conditions for probation;
  - 8 (iv) payment of the costs of confinement;
  - 9 (v) payment of a fine as provided in 46-18-231;
  - 10 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
  - 11 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
  - 12 (viii) with the approval of the facility or program, an order that the offender be placed in a  
13 community corrections facility or program as provided in 53-30-321;
  - 14 (ix) community service;
  - 15 (x) home arrest as provided in Title 46, chapter 18, part 10;
  - 16 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
17 society;
  - 18 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 19 or
- 20 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 21 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
22 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
23 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
24 restrictions or conditions may include any of those listed in subsection (1)(a).
- 25 (c) impose a fine as provided by law for the offense;
  - 26 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
27 counsel as provided in 46-8-113;
  - 28 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
29 the defendant to the department of corrections for placement in an appropriate correctional institution or  
30 program;

1 (f) with the approval of the facility or program, order the offender to be placed in a community  
2 corrections facility or program as provided in 53-30-321; or

3 (g) impose any combination of subsections (1)(b) through (1)(f).

4 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
5 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
6 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
7 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

8 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
9 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
10 a felony, regardless of whether any other conditions are imposed.

11 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
12 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
13 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
14 allowed for jail or home arrest time already served.

15 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
16 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
17 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
18 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

19 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
20 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

21 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
22 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
23 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
24 suspended.

25 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
26 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
27 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

28 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
29 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
30 Title 46, chapter 23, part 5.

1 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
 2 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
 3 offender program. ~~If recommended by the department of corrections and included in the sentence~~ [THE  
 4 PERSON IS SUBJECT TO THE PROVISIONS OF [SECTION 1 OF SENATE BILL NO. 31]], the person shall  
 5 also[, AS PROVIDED IN [SECTION 1 OF SENATE BILL NO. 31],] undergo MEDICALLY SAFE  
 6 medroxyprogesterone acetate treatment or its chemical equivalent OR OTHER MEDICALLY SAFE DRUG  
 7 TREATMENT THAT REDUCES SEXUAL FANTASIES, SEX DRIVE, OR BOTH, PAID FOR BY AND for a period  
 8 of time determined by the department of corrections. The period may not exceed the period of state  
 9 supervision of the person.

10 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
 11 imprisonment of the offender in the state prison, including placement of the offender in a community  
 12 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
 13 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison  
 14 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were  
 15 not selected, based on the criteria contained in 46-18-225.

16 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
 17 not apply to a person sentenced under 46-18-219."

18  
 19 **NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. (1) IF [SECTION 1] OF SENATE**  
 20 **BILL NO. 31 IS NOT PASSED AND APPROVED, THEN THE BRACKETED LANGUAGE IN THAT PART OF**  
 21 **[SECTION 1 OF THIS ACT] THAT AMENDS 46-18-201(10), IN BOTH VERSIONS, IS VOID AND THE**  
 22 **PHRASE "RECOMMENDED BY THE DEPARTMENT OF CORRECTIONS AND INCLUDED IN THE SENTENCE"**  
 23 **MUST BE REINSERTED.**

24 **(2) IF [SECTION 1] OF SENATE BILL NO. 31 IS PASSED AND APPROVED, THEN:**

25 **(A) THE WORDS "MEDICALLY SAFE" ARE INSERTED AFTER "SENTENCED TO UNDERGO" IN**  
 26 **EACH PLACE IN WHICH THAT PHRASE APPEARS IN SUBSECTIONS (1) THROUGH (3) OF [SECTION 1]**  
 27 **OF SENATE BILL NO. 31;**

28 **(B) THE WORDS "OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL**  
 29 **FANTASIES, SEX DRIVE, OR BOTH" ARE INSERTED AFTER THE WORD "EQUIVALENT" IN EACH PLACE**  
 30 **IN WHICH "EQUIVALENT" APPEARS IN SUBSECTIONS (1) AND (2) OF [SECTION 1] OF SENATE BILL NO.**



1 31; AND

2 (C) THE WORDS "OR OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL  
3 FANTASIES, SEX DRIVE, OR BOTH," ARE INSERTED AFTER THE WORD "EQUIVALENT" IN SUBSECTION  
4 (3) OF [SECTION 1] OF SENATE BILL NO. 31.

5

6 NEW SECTION. Section 3. Application. [This act] applies to offenses committed after October  
7 1, 1997.

8

-END-