

EXHIBIT 3
DATE 2/19/05
45 726

Amendments to House Bill No. 726
1st Reading Copy

Requested by Representative Gail Gutsche

For the House Judiciary Committee

Prepared by John MacMaster
February 18, 2005 (3:18pm)

1. Title, page 1, line 6.
Following: "VIOLATORS;"
Insert: "PROVIDING THAT A CONVICTED PERSON PAY A \$50 PRESENTENCE REPORT FEE TO FUND THE ALTERNATE SENTENCING OPTION;"

2. Title, page 1, line 7.
Following: "SECTIONS"
Insert: "46-18-111,"
Strike: "AN"

3. Title, page 1, line 8.
Strike: "DATE"
Insert: "DATES"

4. Page 1, line 11.
Insert: "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, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing. If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, or 45-5-627, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs

(over)

related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(2) The court shall order a presentence report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, 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 and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(4)."

{Internal References to 46-18-111: x None.}"

Renumber: subsequent sections

5. Page 4, line 6.

Following: "program"

Insert: "provided for in 53-1-203"

6. Page 7, line 13.

Following: "46-18-201"

Insert: "and 46-18-225 and as a sanction option under 46-23-1015"

7. Page 8, line 1.

Strike: "date"

Insert: "dates"

Strike: "[This act] is"

Insert: "(1) [Section 1] and this section are"

8. Page 8, line 2.

Insert: "(2) [Sections 2 through 6] are effective July 1, 2006."

- END -