

SJ 19 STUDY: 2019 REVISIONS TO SEX OFFENDER EVALUATOR QUALIFICATIONS

PURPOSE OF BRIEFING PAPER

The Law and Justice Interim Committee (LJIC) is studying Montana's sexual and violent offender registries as requested in Senate Joint Resolution 19 (2019). At its November 2019 meeting, the LJIC requested information about a change the 2019 Legislature made to a statute setting qualifications for individuals who perform psychosexual evaluations on defendants facing sentencing for criminal sexual offenses. This paper is intended to provide that information.

Summary: There is no discussion on the record to assist the LJIC in determining the 2019 Legislature's reasons for amending sex offender qualifications

BACKGROUND

Montana law requires that a defendant convicted of certain sexual offenses¹ undergo a psychosexual evaluation prior to sentencing. The evaluation must include treatment recommendations that consider the risk to the community and the defendant's needs. Evaluation results are provided to the county attorney, the defense attorney, the probation and parole officer conducting any presentence investigation report, and the sentencing judge.

Prior to July 1, 2019, Montana law required this evaluation to be completed "by a sexual offender evaluator who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry." [Section 46-18-111(1)(b), MCA, 2017]

The 2019 Legislature amended the law to remove the language that specified membership in the treatment association was an acceptable qualification. Instead, after July 1, 2019, the law requires an evaluator have "credentials acceptable to the department of labor and industry and the court." [Section 46-18-111(1)(b)(ii), MCA, 2019]

SUMMARY OF THE 2019 LEGISLATIVE CHANGES

The 2019 Legislature revised the required qualifications for psychosexual evaluators in House Bill No. 684 (HB 684), which was a general revision companion bill that implemented provisions of the session's General Appropriations Act (or House Bill No. 2). HB 684 was sponsored by Rep. Matt Reiger, the presiding officer of the joint subcommittee responsible for developing the budget for the state's criminal justice system agencies.

The introduced version of HB 684 did not include language revising qualifications for sex offender evaluators. That language was amended into the bill during a free conference committee. The amendment agreed upon by the conference committee included multiple other adjustments to the bill. While the committee members discussed several of those other amendments, it did not discuss their reasons for revising the sex offender evaluator qualification statute. The only related discussion was a point of order to ensure that the language adjusting the qualification requirements was still included in the main amendment text after multiple motions to segregate and conceptually amend other portions of the amendment text.

During the floor presentations of the conference committee report, neither the bill sponsor nor the bill's Senate carrier spoke about the amendment to the evaluator qualifications. As a result, there is no discussion on the record to assist the LJIC in determining the Legislature's reasons for amending those qualifications.

SOURCES

- Section 46-18-111(1)(b), MCA, 2017: https://leg.mt.gov/bills/2017/mca-update-112018/title_0460/chapter_0180/part_0010/section_0110/0460-0180-0010-0110.html
- Section 46-18-111(1)(b)(ii), MCA, 2019: https://leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0010/section_0110/0460-0180-0010-0110.html
- House Bill No. 684, 2019, Enrolled Version: <https://leg.mt.gov/bills/2019/billpdf/HB0684.pdf>
- Summary of Actions for HB 684, 2019 (includes links to hearings): [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20191&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=684&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20191&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=684&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

ⁱ A psychosexual evaluation is required for an individual convicted of one or more of the following offenses: sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, incest, patronizing a child prostitute, aggravated patronizing of a child prostitute, promotion of prostitution of a child, aggravated promoting of prostitution of a child or a victim of human trafficking, sexual abuse of children (which includes what is commonly termed pornography), ritual abuse of a minor, sexual servitude, patronizing a victim of sexual servitude, deviate sexual conduct, and failure to register as a sexual offender.