



Montana Safety Valves

IMPORTANT NOTE: Laws change frequently, and this may not be an up-to-date description of safety valves available. Talk with a lawyer in your state if you have questions about safety valves.

Code Section	Safety Valve Provision for Mandatory Minimum Sentences
MCA § 46-18-222	<p>Courts are not required to impose mandatory minimum sentences if:</p> <ol style="list-style-type: none"> (1) the offender was less than 18 years old at the time of the commission of the offense; (2) the offender's mental capacity was significantly impaired at the time of the commission of the offense, although not so impaired as to constitute a defense to the prosecution;* (3) the offender was acting under unusual and substantial duress at the time of the commission of the offense, although not such duress as would constitute a defense to the prosecution; (4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor; (5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim, unless a weapon was used in the commission of the offense; OR (6) the offense was for sexual assault of a child,** and the judge determines, based on the findings contained in a sexual offender evaluation report prepared by a qualified sexual offender evaluator, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation and for the ultimate protection of the victim and society.

*Voluntarily induced intoxicated or drugged condition may not be considered impairment for these purposes.

**The following offenses are included in this category: sexual assault of a victim under the age of 16 under MCA § 45-5-502(3), sexual intercourse without consent of a victim under the age of 12 under MCA § 45-5-503(4), incest of a victim under the age of 12 under MCA § 45-5-507(5), prostitution under the age of 12 under MCA § 45-5-601(3), promoting prostitution of individuals under the age of 12 under MCA § 45-5-602(3), aggravated promotion of prostitution of individuals under the age of 12 under MCA § 45-5-603(2)(c), or sexual abuse of children under the age of 12 under MCA § 45-5-625(4). Please see MCA § 46-18-222 for more information at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>.

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Code Section	Safety Valve Provision for Drug Offenses
MCA § 45-9-202	<p>If a defendant is convicted of a dangerous drug felony, and the court finds that incarceration is not appropriate based on the face of the record or from a presentence investigation and report, the court may suspend or defer a prison sentence and use any one or more of the following alternatives:</p> <ol style="list-style-type: none"> (1) Impose a fine (2) Commit the defendant to a residential drug treatment facility (3) Mandate completion of a community-based drug treatment or drug education program (4) Place the defendant on intensive probation subject to a series of conditions* (5) Suspend or revoke the defendant's driver's license.

*The full list of the conditions are available at MCA § 45-9-202(d)(i)-(viii). Please see <http://data.opi.mt.gov/bills/mca/45/9/45-9-202.htm>.