

BULLOCK FOR ATTORNEY GENERAL

PROTECTING OUR CHILDREN: Addressing the Real Issues with Sexual Predators

We don't need new legislation. Past Montana legislatures have made sure that we have very strong laws against sexual abuse of children and for registration of sexual and violent offenders. ***We do need to make sure that we convict sex offenders and that we effectively enforce the laws we already have on the books.***

1. As Attorney General, I will dedicate a prosecutor within the Attorney General's office to focus exclusively on crimes against children.

- The Attorney General's office already has dedicated prosecutors for issues like Medicaid fraud, worker's compensation fraud, and child abuse and neglect. These are special areas of law that require specialized knowledge and training.
- Prosecuting cases involving child victims is difficult and sensitive, and warrants the same kind of specialized legal attention.
- A dedicated prosecutor for sex assault cases involving young children would be an invaluable resource. This position would provide assistance and training to county attorneys throughout the state and help to make sure local prosecutors have the support they need to get solid convictions that stand up on appeal.

2. I will support the development of a Children's Justice Center within the Montana Department of Justice.

- A statewide Children's Justice Center will help us focus and coordinate our efforts to enforce the laws relating to sexual violence against children. It will also
 - improve the services we provide to child victims,
 - strengthen the reliability of the sex offender registry, and
 - deal more effectively with Internet crimes.
- With funding from the 2007 Legislature, DOJ has begun establishing and training multi-disciplinary teams in communities across the state to work with child victims of sexual assault.
- These teams include child protection investigators, mental health workers, law enforcement officers, prosecutors, child advocates and medical providers trained in conducting exams specific to children. They work with victims in a safe, child-friendly environment to make sure young victims have the support and the services they need.

- There are now four Child Advocacy Centers in the state: one each in Helena, Missoula, Butte and Hamilton. *Last year, these four centers alone saw 500 Montana kids who were victims of sexual abuse.* These 500 children got support during the investigation, referral to mental health services, and a case coordinator to make sure everyone on the team had information essential to the case and to keep the child's caregiver informed of progress in the case.
- We need to continue and strengthen our support for these local child advocacy teams. And I believe we need to expand the effort by developing a statewide response team that can assist in areas of the state where resources are limited.
- I will also support legislation to allow better information-sharing among all members of the child advocacy teams. Giving all team members access to the information they need is critical – both to convicting sexual predators and to protecting young victims.
- The Children's Justice Center also needs to coordinate efforts to keep our children safe online. Nationally, almost 50% of children are bullied online and one in five kids is sexually solicited on the Internet.
- Sadly, crimes against children often are perpetrated by family members and others who have legitimate access to kids. In these cases, it's the adults – who should be protecting the children – who are the ones posting inappropriate pictures of them on the Internet.

3. In most cases, Montana law does not allow evidence of similar crimes to be introduced as evidence in cases involving child sex abuse. I will ask the Montana Evidence Commission to consider a proposal to change that.

- Since 1994, the Federal Rules of Evidence have allowed the prosecution in child molestation cases to introduce evidence of the defendant's commission of other child molestation offenses. But under Montana law, such evidence is prohibited, except under very narrow circumstances. A new rule would allow evidence at trial that the defendant has committed offenses of the same type against children on other occasions.
- When the victim of an offense is a child, it can be difficult to get identification and eyewitness statements that are detailed and reliable. This is especially true with sex offenses, which are, by their nature, shrouded in secrecy and fear. Allowing evidence to show an offender's propensity to victimize children will help juries evaluate credibility issues at trial.

- The current rules allow for introduction of “other crimes” evidence to show such things as motive, opportunity, intent and identity. Propensity has similar characteristics to motive and intent. It is difficult for most of us to believe that a person could sexually victimize a child. Provided the evidence is carefully evaluated by the trial judge to ensure reliability and relevance, evidence of a propensity to victimize children would give prosecutors one more tool to bring relevant facts before the jury – the fact that the defendant has the type of sexual interest in children that simply does not exist in ordinary people.
- There are certainly good reasons why the rules prohibit prosecutors from convicting someone simply by proving he or she is a “bad person.” No rule of evidence should allow a jury to convict just because the defendant has engaged in similar bad acts in the past.
- In Montana, rules of evidence are adopted by the Supreme Court on the recommendation of the Montana Evidence Commission. After the Commission discusses any ramifications with prosecutors, defense attorneys, victim advocates and others – I believe it could carefully craft a rule that promotes the safety of victims but protects the rights of the accused.

4. I will support efforts to strengthen the resources available to ensure compliance with Sex Offender Registry requirements.

- Under state law, the Department of Justice is responsible for maintaining the statewide Sex Offender database.
 - There are currently 1700 sexual and violent offenders on the registry. Until the last legislative session, state law authorized posting the photographs of fewer than 5% of registrants on the website. With the legislative changes, all but 3 or 4 offenders now have photographs online.
- Providing adequate training to local agencies and keeping current on the database audits are critical to making sure the registry is kept up to date.
 - It is local law enforcement agencies that provide the information the DOJ needs to keep the Registry complete and up to date.
 - Right now, there is only one person in the Department of Justice who does all the data input; conducts statewide training for local programs; and audits the local programs to determine compliance with the law’s requirements for keeping information current on the registry. We must make sure the DOJ has the resources it needs to train, audit and support our local law enforcement agencies.
 - One of the biggest challenges is tracking down offenders who don’t register.

- The federal government has recently made software available to the states without charge that would allow individuals to subscribe to an e-mail service so they could receive electronic notification if a sexual predator moves into their neighborhood. The Montana Department of Justice has obtained this software and is in the process of developing the State's capability to provide this service. I support and will continue these efforts so people who want that information can readily obtain it.

Summary of Existing Montana Law

- Since 2005, Montana law has required satellite-based electronic monitoring of the most serious sexual predators.
- In 2007, the legislature increased penalties for incest and rape of children under 12 years of age. These crimes now carry a mandatory prison sentence of 100 years. A convicted offender must serve at least 25 years before being considered for parole and must complete sex offender treatment. If released after 25 years, the offender:
 - is subject to continuous, satellite-based monitoring and
 - must be supervised by the Department of Corrections for the rest of his life.
- Anyone who unlawfully restrains or commits any sexual offense against a child (under 18) must be registered in the Montana Sexual or Violent Offender Registry.
- A person who commits rape or incest against a child under 12 is automatically deemed a sexually violent predator and must register for life.
- The Department of Justice is required by law to give notice to the public of an offender's name, address, birth date, physical description, photograph, vehicle description and license plate number, as well as the type of victim targeted by the offense and the date of the offender's release from confinement.