

# Preliminary Department of Justice Legislative Requests

## *Law and Justice Interim Committee*

June 27, 2014

If you have any questions about the following draft concepts, please contact Deputy Attorney General Jon Bennion at the Department of Justice, (406) 444-5880, [jonbennion@mt.gov](mailto:jonbennion@mt.gov):

1. **Generally Revise Human Trafficking Law** – The 2013 Legislature passed new laws criminalizing human trafficking. The final version of the bill did not contain some key elements, such as forfeiture of assets derived from human trafficking activities. In addition, a new model Human Trafficking Act was developed following adjournment that should serve as a basis for a revised version in Montana.
2. **Generally Revised Laws Relating to Sex Offender Registration** – Following the development of our long-term sex offender tier designation initiative, it became clear that Montana could go further in placing more of the tier designation burden for out-of-state and federal offenders on the offenders themselves. Other states require incoming sex offenders to do more in terms of sharing evaluations, getting an evaluation, or making any non-tiered offender the maximum level. In addition, the Division of Criminal Investigations (DCI) has recommended several other SVOR changes to allow the state to collect more info from offenders (screen names, email addresses, etc...), allow SVOR to post more info on offenders, and change the timeline for tier one removal from registry to 15 years.
3. **Generally Revise Laws for Refusal to Blow in DUI** – Give law enforcement the ability to get a warrant for a blood draw on first-time DUIs.
4. **Generally Revise Aggravated DUI Laws** – Penalties need to be strengthened on Aggravated DUI since it often makes more sense for an offender to plead guilty to an Aggravated DUI charge versus a second or third DUI.
5. **Patent and Copyright Trolling Act**– More states are specifically addressing the problem of patent and copyright trolls in their state statutes. Vermont was the first, and others have followed. By the end of 2014, several states will have addressed this issue. It's one that appears to be a growing problem in Montana. This is a needed consumer protection law.
6. **Generally Revise Laws on E-Cigarettes** – With the creation of e-cigarettes, questions have arisen regarding their use by minors. States are prohibiting their sale to minors, and banning sales on the internet or vending machines.
7. **Generally Revise Laws Regarding the Crime Victims Fund** – An area of the code relating to Victim's Services expires in 2015, and the DOJ will be asking to lift that expiration. The crime victim compensation fund statutes should be updated to raise levels for funeral benefits, general claim amounts, mental health treatment rates - which have not been raised in over 20 years despite inflation.
8. **Generally Expand Laws to Prevent Sexual Abuse of Children** - Currently, first offense indecent exposure in Montana is a misdemeanor regardless of who the victim is. Sexual predators often use electronic communications to groom prospective victims. This amendment would felonize the knowing or purposeful exposure of the person's genitals, including through electronic communications, to a person the offender believes to be under the age of 16 in order to abuse, humiliate, harass, or degrade the child or for purposes of sexual gratification.

9. **Enhance Prescription Drug Abuse Prevention Efforts** – A number of ideas are coming out of DOJ regarding the prevention of illegal prescription drug use and abuse. We expect the Prescription Drug Abuse Prevention Coordinator (who will be hired in July) will also have ideas on statutory changes to address abuse.
10. **Require Electronic Reporting of Pseudoephedrine Sales to Prevent Smurfing** - Electronic pharmacy reporting system to track all pseudoephedrine sales in order to reduce meth labs.
11. **Update Laws on Surreptitious Viewing** – Several prosecutors have noted problems with the language in the current surreptitious viewing statute. The language is out-of-date and doesn't take into account members of the public recording others surreptitiously through cell phone cameras and other means.
12. **Clarify Existing Law Regarding Search Warrants Technology** – Under current law, officers who have Internet access in their patrol cars or offices should be able to create affidavits in support of a warrant and submit it to a judge via an e-mail request. The judge could review the affidavit and either deny the warrant, deny the warrant with an explanation or issue the warrant. Police say using email saves valuable investigation time and helps them quickly collect and preserve evidence.
13. **Require Notice to the Attorney General on Data Breaches** - Some states require notice be given to the Attorney General when a consumer data breach has occurred. Montana statutes do not include such a requirement. Notice would give the AG more of a sense of the scope of identity theft in Montana and further might identify some businesses which have lax security practices. Those businesses might be encouraged to take specific steps to increase their security practices.
14. **Criminalize the Misuse of Official Criminal Justice Information** – Misdemeanor criminal penalties should be enacted that allow for the prosecution of individuals who abuse their access to criminal justice information.
15. **Generally Revise Laws Regarding Missing Persons** – Minor differences in federal and state law exist in missing persons situations. Current state law does not identify specific time requirements for entry in NCIC. Federal law allows for missing persons to be under the age of 21 while state law says under the age of 18.
16. **Creation of Sex Assault Prosecution Unit** – The Montana Department of Justice's Prosecution Services Bureau is an invaluable asset to the state's county attorneys in the prosecution of major crimes. Much like there are special prosecution units for Medicaid Fraud, Fish, Wildlife and Parks violations and Workers' Compensation fraud, the DOJ proposes the creation of a special Sexual Assault Prosecution Unit to assist in the prosecution of sexual assault crimes and training of local prosecutors.
17. **Revise Laws to Address Funding of the Montana Law Enforcement Academy** – Long-term funding for infrastructure and overhead needs is a critical issue for the Montana Law Enforcement Academy (MLEA). DOJ is developing a variety of ideas to resolve the funding problem without general fund, but it may take a statute modification to accomplish it.
18. **Generally Revise Laws Regarding Motor Vehicles**– Traditionally, MVD has had two general clean-up bills – one for vehicle registration and another for drivers' licenses. MVD expects the same for the 2015 Session, but no details yet.
19. **Generally Revise Laws Regarding Motor Vehicles** – See #18
20. **Generally Revise Gaming Laws** – This Division of DOJ typically has a clean-up bill of its own, often coming from the Gaming Advisory Council.