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Good Afternoon Members,

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I trust that each of you have reviewed my letter of Sept. 8 regarding some of the issues that I see for this committee to address surrounding the issue of Sexual Assault. This is a tough issue to address, at times emotional and gut wrenching.

There is not a soul in this room who hasn't been touched by Incest, Rape or Sexual Assault whether directly or indirectly. One in 3 girls and 1 in 5 boys being sexually assaulted before age 18. Those numbers are chilling, indicating we've a lot of work to do on the issue, educating children and adults about meaningful communication and human sexuality.

As I mentioned in my letter, child sexual abuse is at the core of the sexual assault issue. Developing sex education programs in Montana's lower, middle schools as well as high schools is imperative, allowing students to have age appropriate healthy conversations about sex/sexuality.

I again ask for funding for the educational program **Hugs & Kisses**. This age appropriate program is aimed at fifth graders in Montana's schools to learn personal boundaries, thus empowering them to say "NO". For over 30 years Virginia has funded the program. As a result at each performance an average of 5 disclosures are made. While not all are founded, the program has helped children understand they have boundaries of their bodies. And prior to each performance teachers are prepared to address student concerns. At the performance there are licensed counselors as well as CPS workers attending to address concerns.

Please consider hosting a performance by the Virginia cast for parents, education officials, legislators, law enforcement and the judiciary. I believe all will be convinced that the program is a necessary prevention and intervention tool to protect children as well as enhance the safety of Montana communities.

Further, we need to encourage Child Protective Services, Criminal Justice system, Law Enforcement and Prosecutors to work together on cases, pooling resources and communicating rather than competing for both state and federal funding to address Sexual Assault/Child Sexual Abuse & Incest. And to focus on truth while respecting both victim and perpetrators rights, not just obtaining a conviction.

Having reviewed Montana's Sexual Assault laws some are antiquated. Issues that need addressing are:

1. **S5-5-502 Sexual assault.** (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.
Consent—how do we determine consent? A real challenge since it comes down to the word of both parties—alleged victim and perpetrator, though sometimes a witness. Consent means first **having a meaningful, mutually respectful conversation about sex prior to engaging in sex.**

Questions surrounding consent should include: _____

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- The relationship and/or power of alleged perpetrator over victim.
 - Is there a relationship of dependency or disciplinary authority between alleged victim/perpetrator. For example, child vs. adult, wife vs. husband, strength of victim vs. perpetrator.
2. Further in the MT code: **Subject to subsections (5)(b) and (5)(c), consent is ineffective under this section if the victim is: (ii) less than 14 years old and the offender is 3 or more years older than the victim; How can 14 year old make a decision consenting to sex? Psychologists agree that most 14 year olds cannot emotionally or intelligently make the decision and understanding the consequences.**
 3. The code seems to address the issue of those victims who are incarcerated or in detention facilities, on probation/parole or receiving community services. **It fails to address those alleged victims/perpetrators engaged in a familial, intimate, casual or no relationship.**
 4. (Mont. Code Ann. § 45-2-101 (35) Montana's sexual assault law, a person acts "**knowingly**" when he or she is aware of the sexual contact that he or she is inflicting on another person. So, unintentional or inadvertent contact is not sexual assault in Montana?

How is the issue of unintentional or inadvertent defined or proven? Again, I believe it goes back to the issue of consent. How can someone touch someone else without knowingly doing so?

Mont. Code Ann. § 45-2-101 (67).A "bodily injury," as that term is used for Montana's sexual assault or nonconsensual sexual intercourse laws, means:

- physical pain
 - physical illness
 - impairment of a physical condition
 - mental illness, or mental impairment. **I suggest that "trauma", be added to the list separate from mental illness?**
5. (Mont. Code Ann. § 45-2-101 (68) Sexual intercourse without consent is a more serious form of sexual assault (rape) under Montana law. A person engages in sexual intercourse without consent by penetrating, however slightly, the vulva, anus, or mouth of another person with:
 - his penis **(add vagina, we know that women rape/sexually assault without consent)**
 - his or her body member, or
 - a foreign instrument or object.

in order to knowingly:

- cause bodily injury to the other person
- **humiliate, harass, or degrade the other person, (this is the very definition and result of sexual assault)**

- or arouse or gratify the sexual response or desire of either party
6. (Mont. Code Ann. § 46-23-502.) **Sex offender registries:**
Are very necessary but not to the point of punishment or banishment. In order to have safe communities, **as sex offenders re-enter society we must have tools in place to allow them to obtain housing and employment as well as mental health treatment, all of which assists in avoiding recidivism.** Additionally, it is absolutely essential Montana develops and implements a **Sex Offender Treatment program.**
 7. **45-5-507. Incest.** (1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter. This must be amended to **address a parent/child of blood relation, this must be amended.**
 8. 46-18-242 In addition to any sentence imposed under subsection (3) or (4), after determining the financial resources and future ability of the offender to pay restitution as required by, the court shall require the offender, **if able, to pay the victim's** reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244. Please consider amending to **include future and current resources to include the sale of land and other property.** FYI: perpetrators with **federal pensions can be accessed as a form of restitution to victims.**
 9. **45-5-625. Sexual abuse of children** This section does not address the **relationship between alleged victim/perpetrator**, but only pornography. **It is imperative that this section include the relationship between victim/perpetrator and the alleged act (s) perpetrated. For example a parent performing fellatio or a teacher/coach raping a student.**
 10. I urge the committee to propose **extending the Statute of Limitations** in civil cases to 10 years past the age of majority or age 30. The language of the law could be adopted from the Workman's Compensation laws, that of tying the causal connection between the injury and the communication to the victim by a physician or psychiatrist.

Thank you all for your time in reviewing and considering my concerns and ultimate suggestions. Again, my offer to assist the committee in anyway remains.