EXHIBIT 26
DATE 3/9/07
SB 104

DEPARTMENT OF JUSTICE
SB 104: To Extend the Statute of Limitations in Sex Offense Cases Where a Suspect is Identified by DNA

Background

Generally, prosecutions must commence within five years of the commission of a felony offense and within one year of a misdemeanor offense. For sex crimes however, the statute of limitations is longer because of the serious nature of the crimes.

The statute of limitations for the following sex crimes is generally 10 years:

- felony sexual assault
- sexual intercourse without consent
- incest where the victim is under 16 and the offender is three or more years older

However, if the victim was under 18 when the offense occurred, the 10-year period begins to run after the victim turns 18.

In addition, under MCA 45-1-205, prosecutions for indecent exposure, deviate sexual conduct, incest, sexual abuse of children or ritual abuse of a minor must be commenced within five years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time the offense occurred.

Proposed Extension

SB 104 would amend the statute of limitations to extend the time allowed for prosecuting sex offense cases in which the identity of the suspect is conclusively established by DNA.

Example:

> A 20-year-old woman is raped. She does not know the offender and cannot identify him. Law enforcement finds no match of the DNA evidence in the case. Eleven years later, the offender is arrested for a burglary and submits a DNA sample. Law enforcement positively identifies the suspect as responsible for the rape 11 years earlier. Under current Montana law, the statute of limitations would have run out and the rapist could not be prosecuted despite the conclusive evidence. Under the proposed amendment, the suspect could be charged and tried.

SB 104 would amend MCA 45-1-205 to state that the time period within which you can commence prosecution of a sex offense case runs from the later of:

- the date of the commission of the offense (current law),
- the date of the victim's 18th birthday (current law), or
- the date on which the identity of the suspect who is charged with the offense was conclusively identified by DNA testing, as defined in MCA 44-6-101 (new law).

2007 Legislature
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