

MONTANA SHOOTING SPORTS ASSOCIATION
2017 LEGISLATIVE ISSUES

2016 LEGISLATIVE CANDIDATE QUESTIONNAIRE
(Return by April 8, 2016)

Please check the response that best describes your position on each issue.

1. **Sheriffs in the Constitution.** In some states the office of sheriff has been effectively abolished, usually by moving essential powers from sheriffs into the hands of a bureaucratically-controlled state police force. Shifting power from a locally-elected official into the hands of unelected, state-level bureaucrats diminishes liberty, damages accountability, and shifts even more power from people to government. To prevent this drift in Montana, MSSA proposes a constitutional referendum to upgrade the language about the office of sheriff in the Montana Constitution. This new language would: 1) Establish the office of sheriff as a constitutionally-specified office; 2) make the office mandatory for each county; 3) require that the sheriff always be elected (not appointed); 4) clarify that any elector is qualified to seek the office of sheriff; and 5) reserve essential law enforcement powers to the sheriff at the county level.

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

2. **Rights upon release from custody.** Prosecutors routinely demand, and some judges allow, that an accused person be stripped of reserved constitutional rights as a condition of release from custody, EVEN IF abuse of the restricted right had nothing to do with the alleged offense for which the person was in custody. Should an accused trespasser be prohibited from trial by jury, should an accused poacher be prohibited from political speech, and should an embezzler be prohibited from possessing firearms? MSSA proposes a law that would clarify that a person may not be stripped of a constitutional right as a condition of release from custody unless abuse of that right was an element of the offense for which the person was in custody.

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

3. **Statute of limitations for second trial.** There is no statute of limitations for murder. A prosecutor may prosecute a suspect forever. This is necessary for possible cold case resolution, and in the event new evidence turns up. However, once a prosecutor prosecutes someone who admits taking a life but argues that it was self defense (not an accident, alibi, insanity, or other defense), and if the prosecutor gets a hung jury (not unanimous for conviction or acquittal), then there should be a time limitation at that point for retrial of the accused. MSSA proposes that a prosecutor have no more than one year to re-prosecute a person who has

claimed self defense to get a hung jury in an initial trial. For the first trial, the prosecutor will have conducted all the investigation, gathered all the evidence, consulted with the experts, and refined the arguments. All of that is already done. At this point, the accused person needs to know that there is some light at the end of the prosecutorial tunnel - that there is some fixed date after which the defender is free from the sword of prosecution.

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

4. Montana School Safety Act. K-12 school safety is entirely dependent on a policy prohibiting firearms in schools, and the laughable theory that a madman or terrorist will respect and comply with that paper policy. Police can only provide follow-up coverage, perhaps clean-up. In an active shooter incident, it will take police 10 to 30 minutes, or more, after the first 911 call to respond, organize, and perform any meaningful interdiction. Meanwhile, absolutely nothing currently in place will stop the madman or terrorist bent on mass murder. The Montana School Safety Act would allow properly-trained and licensed teachers to possess a concealed firearm at school in order to be able to mount an effective response to a madman or terrorist before our children are needlessly slaughtered. Critics may say that we cannot trust teachers with firearms. Any teachers who cannot be trusted with a simple firearm shouldn't be trusted with our children.

<http://montanaschoolsafetyact.org/Initiativetext.html>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

5. Informing the Montana Supreme Court. In *State v. Cooksey*, the Montana Supreme Court (MSC) held that a 2009 law passed by the Legislature and signed into law by the Governor was not needed and made no change in law, so it could be ignored, this notwithstanding the principle that the Legislature does no idle acts. For a great explanation of this, see Justice Nelson's dissent in *Cooksey*. MSSA proposes to clarify the language of the 2009 law to inform the MSC that the Legislature intends to actually make an enforceable change in law.

<http://leg.mt.gov/bills/2015/billhtml/HB0388.htm>

MSC Opinion in *State v. Cooksey*, including Justice Nelson's dissent.

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

6. Prohibit enforcement of new federal gun laws by Montana public employees. Every week there is talk of a new federal gun control bill, to limit magazine capacity, to outlaw semi-auto rifles, to ban common bullets, to limit the number of firearms a person may own, and many more. The principle has already been established by the U.S. Supreme Court (*Printz v. US*) that the federal government may not commandeer state and local government employees to implement federal programs. We propose that Montana public employees be prohibited by state law from enforcing, or assisting to enforce, any federal gun laws that are not already in effect.

<http://leg.mt.gov/bills/2015/billhtml/HB0203.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

7. Allow safe travel to work and employee property right inside private vehicles.

Employees have a property right to what they choose to carry in their vehicles, whether Bibles, newspapers, or firearms. Employees also have a constitutional right to be equipped to provide for their own personal protection when traveling to and from work. However, many private employers have made it a termination offense for an employee to have a firearm locked in the employee's vehicle if that vehicle is parked in a company parking lot. Such employers assume no responsibility for employee safety during travel to and from work. We propose that employers be prohibited from firing employees only because that employee has a firearm locked in a privately owned vehicle in a company parking lot. This bill would require that any such firearms also be out of sight from outside the vehicle.

<http://leg.mt.gov/bills/2013/billhtml/HB0571.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

8. "Prohibited Places." There is a badly-conceived statute at 45-8-328 to regulate "prohibited places." This law allows anyone to carry a firearm openly in the listed places but prohibits those who have taken training, had a background check, obtained a concealed weapon permit from their sheriff from exercising their CWP in these "prohibited places." We propose that this archaic and bad law be corrected to allow trained and sheriff-certified and permitted citizens to be exempt from these historic "prohibited places" where anyone may now carry openly.

<http://leg.mt.gov/bills/2015/BillHtml/HB0371.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

9. University system gun bans - "campus carry." The people of Montana have reserved from government interference the right to keep or bear arms in the Montana Constitution. The Montana university system is a government entity. The Montana Constitution gives the Board of Regents broad authority to manage the affairs of the U. system, but it gives the Board NO authority whatsoever to suspend, amend or abolish the Constitution and the rights the people have reserved to themselves from government interference. We propose a bill that withdraws all authority from the Board of Regents to restrict firearms on U. system campuses, and then gives back to the U. system narrowly-tailored authority to adopt certain restrictions that are sensible and also defensible under recent federal (*Heller* and *McDonald*) and state (Colorado, Oregon and Utah) court cases.

<http://leg.mt.gov/bills/2015/billhtml/SB0143.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

10. Sheriffs First - Law Enforcement Cooperation. Many Montanans, both citizens and people in public office, are concerned about the lack of accountability of federal officers

conducting law enforcement operations in Montana. In Montana, we know our county sheriff. He is elected and accountable locally. We believe the sheriff is the chief law enforcement officer in the county, and ought to have the tools to implement that status. MSSA will offer a bill to require federal officers to obtain the written permission of the local sheriff before conducting an arrest, search, or seizure in the sheriff's county. There are exceptions for federal reservations, Border Patrol, Immigration and Naturalization Service, close pursuit, when a federal officer witnesses a crime that requires an immediate response, if the sheriff or his personnel are under investigation, and other necessary exceptions. This bill was passed by the Legislature in 1995, but was vetoed by the Governor.
<http://www.SheriffsFirst.net>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

11. Harmonizing concealed weapon permit (CWP) requirements - "permitless carry". Since 1991, a CWP has not been required for a law-abiding person to carry a concealed weapon in 99.4% of Montana - outside the limits of cities or towns. With over two decades of experience that not requiring CWPs for nearly all of Montana has not created any problems, we propose a bill to harmonize the law so a permit will no longer be required for a law abiding person to carry a concealed weapon in the remaining small 6/10ths of 1% of Montana, inside cities and towns. We intend to leave the permitting process in place, so citizens who desire them may still obtain CWPs for travel to other states that recognize Montana CWPs, and for firearm purchases at gun stores under the federal Brady Law. This change would exclude criminals from applicability - it would still be illegal for criminals to carry concealed weapons. The current system is effectively "coat control." That is, if wearing a firearm inside city limits, a person may not also wear a coat (that could cover the firearm) without a government permit. It is pretty nonsensical in Montana to prohibit wearing a coat without government permission.
<http://leg.mt.gov/bills/2015/billhtml/HB0298.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

12. Clarify authority of school boards for firearms violations. An underreported tragedy in Montana is the number of students who have been disciplined, many expelled, for forgetting that their hunting rifle was locked in their vehicle, usually from a weekend hunt. When such a condition occurs in a school parking lot, ill-informed administrators usually tell reviewing school boards (incorrectly) that the board has no choice but to expel offending students because of mandatory federal law. However, unknown to these poorly-informed administrators, federal law on the subject specifically excludes from consideration any firearm locked in a vehicle in a school parking lot. About 450 Montana high school students have been expelled, and had their academic aspirations ruined for life, over this issue. We propose a bill to clarify for uninformed administrators and misinformed school boards that firearms locked in a student vehicle does not mandate expulsion, but that school boards have full discretion to apply discipline as needed and appropriate to the ingredients of the incident. This bill would NOT deprive school boards of tools to deal with genuine safety problems, but would clarify that firearms locked in vehicles do not MANDATE student expulsion.

<http://leg.mt.gov/bills/2015/billhtml/HB0320.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

13. **Home Guard.** Expand upon existing laws establishing the Montana Home Guard to specify organization, mission, duties, responsibilities and control.

<http://leg.mt.gov/bills/2015/billhtml/SB0130.htm>

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

14. **Shooting range funding.** Montana began using some hunter license money to make matching grants to develop shooting ranges in 1989. The program to build safe and suitable places for Montana people to shoot was put into state law in 1999, as the Shooting Range Development Program (SRDP). The funds for this program are approved each legislative session in the appropriations process for the Department of Fish, Wildlife and Parks budget. There are **no general tax revenues** used for this program, only the money hunters pay for licenses. The 2007 Legislature appropriated \$1,000,000 for the SRDP. The Legislature appropriated \$600,000 in 2009, and about \$650,000 in 2011 and 2013. We ask that \$1,000,000 be appropriated to the SRDP in the 2017 legislative session, regardless of any FWP resistance to that level of funding.

I would: Sponsor() Cosponsor() Support() Be Neutral() Oppose()

The foregoing responses are actually my positions on these issues, to the best of my knowledge and at this time.

Candidate Signature (electronic signature accepted)

Date

Candidate printed name

Office sought

NOTE: This Candidate Questionnaire released electronically on March 24, 2016. Any candidates with Primary Election challenges MUST have their CQ returned electronically, and no later than 5PM, Monday, April 8, 2016, for MSSA's candidate evaluations for the June Primary elections. Thank you.

Thank you for being willing to serve your community and state in public office, and thank you very much for helping to provide us information about your views on issues important to MSSA members.

Please return questionnaire to mssa@mtssa.org (best) or MSSA, P.O. Box 4924, Missoula 59806.

Any additional comments may be added here or attached: