

# Alaska Legislature

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### ACJC RECOMMENDATION:

#### REPEAL LIFETIME BAN ON FOOD STAMPS FOR FORMER DRUG OFFENDERS

*The Alaska Criminal Justice Commission was asked by the Legislature to make recommendations for improving criminal justice practices, including rehabilitation. The Commission reviewed the state's laws, including those sanctioning nonviolent crimes, looked at changes in sentences over time, other states' experience, and the relevant research, and developed the following in response.*

In 2015, the Commission recommended that the Alaska Legislature enact an 'opt-out' from a federal law<sup>1</sup> that permanently excludes any person convicted of a drug felony from eligibility for federal food assistance, known as Food Stamps. State legislatures can maintain, outright repeal, or modify the ban. The Commission recommends an outright repeal.

Alaska is one of only six states that have maintained a lifetime ban for any person convicted after August 1996 of any state or federal drug felony, including possession. Twenty-six states have modified the ban. Eighteen states have completely repealed the ban.

The Commission concluded that the lifetime exclusion of otherwise eligible drug offenders from food stamp benefits is counter-productive in several significant ways.

- First, the lifetime exclusion of all drug felons from food assistance benefits is unduly punitive. It persists after an offender has served his or her sentence and completed any probation and/or parole requirements. And the ban applies no matter how old the offense, how short the sentence, nor how well rehabilitated the ex-offender.
- Second, the lifetime exclusion of all drug felons is unfair.<sup>2</sup> Persons who are convicted for any other kind of non-violent crime are always eligible, as are persons who committed felony crimes of violence before 2013.

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<sup>1</sup> Section 862a(a)(2) of Title 21, United States Code. Section 862a(a)(2)

<sup>2</sup> During the War on Drugs, there were concerns that food stamps were being traded by addicts for drugs, hence the penalty. "Food stamps" now comes in the form of an electronic debit card carrying a photo ID which has made the benefit hard if not nearly impossible to traffic. Furthermore, any singling out of ex drug offenders is especially unwarranted today because the issuance of electronic cards with the recipient's photo have significantly reduced

- Third, the specific exclusion of former drug offenders from federal food assistance upon their release from prison does not solve a problem, but rather exacerbates one. Many former offenders re-entering their communities are destitute. They almost always need forms of temporary assistance to help them reintegrate back into the community, seek work and search for permanent housing. Convicted felons face great obstacles in obtaining stable, long-time employment and may need food stamps for the short periods of time (usually 3 months) permitted.
- Fourth, researchers posit that the lifetime ban may hurt victims of domestic violence. There is a growing recognition and evidence of a connection between drugs, sexual assault and domestic violence. Denying food assistance to former drug felons may make it more likely that these individuals may return to situations of sexual exploitation and domestic violence.
- Fifth, the ban undercuts family reunification, not supports it. A person convicted of a drug felony cannot receive food stamps even when the remainder of her household is eligible. Even though the ex-offender may not be “counted” as a member of an otherwise eligible household, any income she earns will nevertheless be “counted” as a family asset. The practical result is a decreased food assistance benefit for the family.

The Commission also determined that expansion of federal food assistance could be provided at little cost to the State of Alaska. Food Stamps are a fully funded federal benefit, with the federal government assuming half of the relatively minor administrative costs. The Commission was also aware that the United States Department of Agriculture has estimated a State will realize an economic benefit of \$1.79 for every dollar of federal food assistance received.

Finally, the Commission considered the experiences of other states in determining whether the food stamp ban should be repealed outright or modified. The Commission concluded that modified bans create additional administrative burdens on the state and often unnecessary burdens on ex-offenders with little demonstrable benefit.

Program requirements imposed on parolees and probationers seemed often duplicative of conditions already monitored by a court or agency. For individuals who had completed their sentences or treatment a decade ago, or in another state, proving ‘rehabilitation’ may be an unfairly burdensome requirement. And while there remains a great deal of interest in conditioning the receipt of governmental benefits on passing drug tests, tests imposed without regard to individualized suspicion of illicit drug use are vulnerable to constitutional challenge.

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any perceived risk that federal food benefits might be bartered for drugs. And those few persons who still manage to engage in food-drug trafficking are subject to a lifetime SNAP exclusion under a different law.