



October 23, 2017

The Honorable Matt Claman
House Judiciary Committee Chair
Alaska State Legislature
State Capitol, Room 118
Juneau, AK 99801

by email: *Representative.Matt.Claman@akleg.gov*

Re: Senate Bill 54: Take Quick Action and Return to Real Solutions

Dear Chair Claman and Members of the House Judiciary Committee:

We call on the Judiciary Committee and the House to take quick action on Senate Bill 54. SB 54 directly responds to the issues that have been raised most prominently by law enforcement and citizens. It is unfortunate that a confluence of circumstances has brought us to amend criminal justice reform so quickly after it was passed, but we recognize that this may be a needed change.

However, basing any further substantive changes to the criminal justice reform law on fear and anecdote—not research and data—is not only wrong, it is irresponsible. Any suggestion that data support the claim that Senate Bill 91 increased crime are **demonstrably false**.¹ Returning to a system that sent two of every three inmates who were released back to jail doesn't advance public safety, it only creates more victims.

Senate Bill 54's Changes

Although the ACLU of Alaska opposed SB 54 in the Senate, we recognize that a confluence of circumstances may call for this change. First, we have an opioid crisis exploding around the state, and although there is little data to support it, many have made the inference that this crisis is tied to an increase in theft. For example, specifically in Anchorage many have raised concerns about vehicle theft. The C Felony provisions in SB 54 will make changes to address those concerns. Similarly, burglary or break-ins would also be addressed by the same C Felony provisions in SB 54.

¹ UAA Justice Center. *Analysis of Crime Trends 2014-2016*, (Oct. 20, 2017), available at http://www.akleg.gov/basis/get_documents.asp?session=30&docid=27938.

Second, many business owners and members of the public report an increase in shoplifting. Although SB 91 does not prohibit the arrest of people who are suspected of shoplifting, many factors have converged to produce that result. Specifically, the court system has amended the bail schedule to reflect the notion that for minor offenses, like petty theft, there is little need to spend \$163 per day incarcerating that person for lengthy periods before their trial. Also, sensibly, the Department of Corrections does not accept someone in their facilities when they would only be fingerprinted, booked, and turned out the door.

The unfortunate consequence of these circumstances is that many members of the public, including those who may feel emboldened to commit crimes, believe that law enforcement cannot arrest and therefore there are few consequences to this kind of crime. The changes to the provisions of Theft in the Fourth Degree would address these issues.

Incarcerating someone before a trial is not punishment. Nor should it be. Those who are held are *presumed innocent*, and should be held only because of a risk they present to society of committing new offenses—particularly those involving public safety—or because they are not likely to return for trial. Many have wrongly equated this period of incarceration to the punishment itself. While incarceration might be appropriate, the systemic flaw is not with the release of a person pretrial, it is that it takes an extraordinarily long time before the trial will happen to allow those who are convicted to be accountable.

The Real Causes and Solutions to Crime

What the Legislature can and should do right now to make Alaskans safer is to return our justice system to its ordinary operating capacity. Courts remain closed for half days on Fridays due to insufficient funding and an embarrassing shortage of funding for prosecutors, defense attorneys, and court personnel is a direct cause of these delays. Prosecutors have declined thousands of cases because they did not have the staff to prosecute them.² Since 2015, the Department of Public Safety has lost 77 full-time positions and closed eight trooper posts.

It makes no sense to be quibbling about adding days or months to criminal sentences when there are no troopers to investigate or prosecutors to prosecute

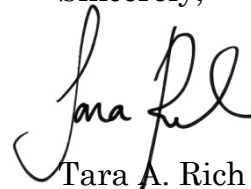
² For example, the criminal division at Department of Law reports that it has taken a twelve percent budget reduction in the last three years, losing 22 prosecutors.

crime. Ignoring deep cuts to public safety budgets, which are integrally tied to increases in crime, simply plays politics with the truth.

Conclusion

We all recognize that SB 91 has only been partially in effect for a little more than a year, and critical changes to the pretrial system will not happen until January. That is clearly not enough time to see any evidence in crime data of SB 91's impacts, positive or negative. While the remaining components of SB 91 go into effect and the Legislature works to fund the increased expenses incurred by SB 54, the lack of funding remains the single greatest impediment to implementing solutions that make Alaskans safer.

Sincerely,



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