



October 9, 2017

Re: No On Section 3, 5, 13, 14, 20 & 22 of SB54 & Support for SB 91

Dear Alaska House Representative,

No On Section 3, 5, 13, 14, 20 & 22 of SB54 of SB54

We oppose SB 54 because of section 20 which repeals "AS 11.66.130(a)(1) or (4), AS 11.66.130 (b) and AS 11.66.135(b)." This section was passed and signed into law the summer of 2016 as Sections 39 and 40 of SB91.

These sections closed loopholes that had allowed the Department of Law to charge sex workers with sex trafficking of themselves, such as in case 4FA-13-2273CR. In that case, an undercover officer was unable to get a woman to agree to perform a sex act for money and the woman repeatedly refused to sell a sex act, saying that she would only sell her time. She was charged with sex trafficking in the fourth degree, or "aiding or facilitating prostitution." A defense motion to dismiss was filed which clearly quoted the legislative intent of the 2012 passage of HB 359 (AS 11.66.110-135) which did not include charging people with sex trafficking of themselves. This resulted in the Department of Law amending the charge to AS 11.66.100, prostitution. The Department of Law later dismissed this charge as well because it was clear from the statements in the police report that no law had broken. However, when the sex worker's name is typed into CourtView, the sex trafficking charge still comes up, impacting her ability to obtain employment and housing. This case is a clear example of the need for timely legislative change to clarify for law enforcement what not to charge so as to not waste any more of Alaska's precious resources and cause undue harm to innocent people.

Despite this case, which the Department of Law was obviously aware of during the 2016 legislative session, the Department of Law wrote mendaciously in a June 17, 2016 letter that: *“SB91 amends both first degree and third degree sex trafficking to ensure that a person may not be prosecuted for trafficking themselves, as opposed to trafficking third persons. (We are not aware that this has ever happened and nor do we believe it could happen under either current law or SB91.)”*

In their recommendations to the Alaska Criminal Justice Commission (page 4, recommendation 4) the Department of Law wrote that the sections were “presumably intended to prevent the state from prosecuting cooperatives of independent sex workers working in the same location as a trafficking enterprise.” While a “trafficking enterprise” isn’t defined in statute, having a “prostitution enterprise” is defined in AS 11.66.120, or sex trafficking in the second degree. A person cannot be charged with an exception defined in a subsection of 11.66.130 to get away with conduct defined in 11.66.120, therefore repealing of these sections 20 is completely unnecessary and would have a negative effect on public safety, as charging independent sex workers with sex trafficking of themselves or each other prevents the reporting of crime.

The Department of Law’s imaginary concerns about sections 36-40 of SB91 are both unreasonable and are far outweighed by the cases where the Department of Law has charged independent sex workers with trafficking of themselves or each other. Last year the House Judiciary was very clear in their intent that independent sex workers should not be charged with trafficking each other.

Additionally, the proposed language change in Section 3 of SB54 adds undue confusion. What is a “reasonably shared expense”? If an escort who lives in Fairbanks allows an escort from Anchorage to stay with her while visiting in exchange for a percentage of her income while there, is that a reasonably shared housing expense? What if two sex workers get a hotel room together and split the cost fifty fifty, but then one worker gets far more work than the other - is it still reasonable for the room cost to be shared equally? If a worker gets a call with security concerns so she pays a friend \$20 to drive her to it and to wait outside for safety, is that a reasonably shared gas expense?

Alaskan sex workers should not be put in a situation to ask themselves and each other if they can safely report actual violent crimes like assault, robbery, or actual sex trafficking without being charged with sex trafficking for aiding or facilitating their own or each other’s prostitution. The legislature should not pass another non-evidence based bill leaving it to the courts to expose how marginalized Alaskans charged under these proposed changes will bear the brunt of unintended consequences.

For these reasons, we urge you to please prioritize public safety for all and amend these sections so as not hold up the good work of SB 91.

Support for SB91

We are very concerned to see/hear members of the public state that they have called the police for help, and the police have stated that SB91 is preventing them from addressing the crime. This is confusing because the Anchorage Police Department has stated publically that it's not clear if SB91 has affected crime rates.

We at the Community United for Safety and Protection have had the privilege and pleasure of sitting through many of the legislative hearings on SB91. We not only listened, but participated in many of the Criminal Justice Commission's hearings and reviewed research, as well as the cost benefit analysis to move away from the failed "tough on crime" policies.

Research shows that charging a broad base of the public with felony charges creates social and financial burdens on society that ultimately serve no public good and SB91 was a start to putting a stop to that failed practice.

We supported SB91 because it addressed some of these incongruent laws regarding our community. We provided documentation towards this end.

One example is the Amber Batts (3AN-14-06159CR) conviction of running a prostitution enterprise that provided erotic service providers with various safety services. There were no victims in her case yet she was indicted on 8 counts of felony sex trafficking. She was originally over charged with 8 counts of sex trafficking, costing precious public resources in mounting a defense.

A warning about this type of prosecutorial abuse was put in a letter regarding Committee Substitute HB 349 (FIN) and HB 359, dated May 2, 2012, written by former Alaska Attorney General Michael Geraghty to then Governor Sean Parnell, the AG stated "The change proposed could result in a fairly broad prohibition of criminal activity. However, working with law enforcement and adopting appropriate case screening standards for prosecutors will address this potential concern." Those screening standards were not in place or used in her case.

Because those screening standards were either not in place or not used, Amber Batts was forced to plead to one count of Class B Sex Trafficking, and sentenced to 5.5 years at cost of \$141 a day. Not only were extensive law enforcement resources expended in this case, there were also the hidden costs of funding her defense.

The same day she was sentenced Alexandra Ellis was sentenced to three years with two suspended on a charge of criminally negligent homicide, and a consecutive 360 days with 350 suspended for DUI for killing bicyclist Jeff Dusenbury while driving intoxicated in South Anchorage and leaving the scene of a crime.

The Batt's case is also in contrast to the more recent case of an individual who just recently plead guilty to sexual assault of a minor and received a 2 year sentence (3AN-16-03544CR). Jack Dalton was indicted on two counts of Class B Felony AS11.41.436(a)(1): Sex Abuse Minor 2- Penetrate, Victim age 13-15. Under a plea agreement Dalton pleaded guilty to the charge of attempted sexual abuse of a minor.

According to the FBI report, of the nearly 500 sexual assault cases are reported each year -- over the last two years -- fewer than 20 percent have been cleared.

<http://www.ktva.com/story/36471313/report-arrests-made-in-less-than-13-of-alaskas-rape-cases>

Year	Offenses	Index Change	Rate Change
2012	576	32.7%	n/a ¹
2013	919 ²	59.6%	n/a ¹
2014	764	-16.9%	-17.1%
2015	895	17.1%	16.8%
2016	1049	17.2%	16.6 %



Rape rate
increased 16.6 %
from 2015
to 2016

Per an article from Juneau Empire, dated August 24th, 2017, JPD has 350 untested sex assault kits, Anchorage has 1,400. The Alaska State Troopers have more than 1,000 kits containing DNA evidence from sexual assaults across the state. Those kits have rested, shelved and untested, because of a lack of funding. Last fall, the state received \$1.1 million to test those kits. Almost a year later, none have been tested. (<http://juneauempire.com/state/news/2017-08-22/nearly-year-later-no-testing-done-sex-assault-kits>)

This outcome is part of larger problem of how police in Alaska are only able to clear 13% of sexual assault cases, according to the recently released Federal Uniform Crime Report.

In this way, we see that criminal justice reform didn't go far enough because there is no mechanism that will hold police accountable as to investigate and solve the 87% of uncleared sexual assaults in Alaska.

The Anchorage Police Department has stated on record that they are not clear if SB91 has affected crime rates. The following article, dated September 20th, 2017, cites Anchorage Police Captain Sean Case and Anchorage City Prosecutor Seneca Theno, and shows the myriad of issues that APD has in analyzing data on offenders. It addresses how APD's data is collected in regards to SB91. Captain Case said it's an example of where police are working now to understand what's being captured and where it's being stored. <https://www.adn.com/alaska-news/crime-courts/2017/09/19/anchorage-police-say-its-not-clear-whether-sb-91-has-affected-crime-rates/>

According to Captain Case and other police officials, gathering data on offenders and arrests is no easy task. The Anchorage Police Department relies on a decentralized mix of police reports and calls for service, stored in separate computer systems. Captain Case is on record stating it isn't the agency's job to validate public feelings about SB91.

Standards and reform in both police and the way prosecutors are able to make charges are important to implement in order to achieve the additional needed changes beyond the goals of SB91. Taxpayers want accountability from lawmakers and law enforcement agencies and your duty is to focus on those issue not conceded to the knee jerk reaction of some who are calling back the same failed policies.

Stop Alaska from becoming a Penal Colony

Thank you,

Terra Burns

Maxine Doogan

Community United for Safety and Protection

<http://sextraffickingalaska.com/>