



# Representative Ivy Spohnholz

House Labor & Commerce Committee Chair

House Health & Social Services Committee Vice Chair

House Energy Committee Vice Chair

*Serving House District 16: College Gate, Russian Jack, Nunaka Valley, & Reflection Lake*

To: Representative Matt Claman, Chair  
Representative Chuck Kopp  
Representative Harriet Drummond  
Representative Louise Stutes  
Representative Gabrielle LeDoux  
Representative Laddie Shaw  
Representative David Eastman  
House Judiciary Committee

From: Representative Ivy Spohnholz

Date: February 6<sup>th</sup>, 2020

A handwritten signature in blue ink that reads "Ivy Spohnholz".

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Yesterday members heard and considered HB 133, the Division of Juvenile Justice (DJJ) statute clean-up bill, and two items were incorrectly described for the public record. I would like to correct those items for members now.

## 1. Carey case loophole

Staff explained that the Daniel Carey case created two loopholes, one being sexual assault in the 3<sup>rd</sup> degree and the other being sexual abuse of a minor. *Carey was not, and could not have been charged with sexual assault in the 3<sup>rd</sup> degree because the individual he sustained an inappropriate sexual relationship with was 17 years old.* Because the individual was a minor, the crux of the case was whether or not Carey was in a position of authority over her. He was acquitted of this charge because the court found that DJJ staff were not explicitly listed as being in a position of authority over minors under AS 11.41.470(5). **HB 133 closes the loophole created by this case in relation to charges of sexual abuse of a minor – not sexual assault in the 3<sup>rd</sup> degree.**

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## 2. Repeal of revocation of drivers' licenses

Staff said on the record that in 2016, SB 165 repealed the revocation of driver's licenses for adjudicated cases of non-driving, illegal substance possession offenses. It was stated that the revocation that was repealed was in perpetuity, and that minors were losing their privilege to ever apply for a drivers' license. This is incorrect. As Matt Davidson, Social Services Officer for DJJ explained, *the repealed revocation would have only lasted up to six months.*

SB 165 repealed the revocation for formally adjudicated misconduct involving controlled substance offenses, but not for offenses informally handled through DJJ, resulting in harsher penalties for cases in which there is no court finding. It is for this reason that probation officers within the division have been directed not to seek revocations in these cases. **HB 133 resolves the issue by repealing the revocation of drivers' licenses for drug offenses handled without formal court action.**

However, it should be noted that while SB 165 repealed DJJ's authority to file revocations of licenses of this sort with the court, **it did not repeal the courts' ability to revoke licenses for adjudicated delinquents and convicted minors.**

AS 28.15.185(k) states, **(emphasis added):**

“A person is subject to revocation, under (b) of this section, of the person's driver's license or permit, privilege to drive, or privilege to obtain a license if the person

(1) **is at least 13 years of age but not yet 21 years of age and is convicted of or is adjudicated a delinquent minor by a court for misconduct involving a controlled substance under [AS 11.71](#)** or a municipal ordinance with substantially similar elements;  
or

(2) **is at least 13 years of age but not yet 18 years of age and is convicted of or is adjudicated a delinquent minor by a court for an offense involving the illegal use or possession of a firearm that is punishable under [AS 11](#)** or a municipal ordinance with substantially similar elements.

(b) **The court shall impose the revocation for an offense described in (a)** of this section as follows:

(1) for a first conviction or adjudication, the revocation *may be* for a period not to exceed 90 days;

(2) for a second or subsequent conviction or adjudication, the revocation *may be* for a period not to exceed one year.”

In summary, HB 133 repeals the revocation of drivers’ licenses for drug offenses handled without formal court action. However, the option, while unlikely, for court revocation remains for adjudicated delinquents and minors convicted of controlled substance offenses and weapons offenses.

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