

March 19, 2013

Senator Dyson  
Alaska State Senate  
Juneau, Alaska

RE: SB 56 "An Act relating to certain crimes involving controlled substances; and providing for an effective date."

Dear Senator Dyson:

This letter is in support of SB 56, a bill that reflects a conservative, humane, realistic and practical approach to illegal drug possession and use/addiction in Alaska. I have reviewed the literature and the testimony on both sides before the Senate Finance committee.

I am a lifelong Alaskan who returned home to practice law. For the last twenty-nine years I have maintained a statewide practice, beginning as a public defender in Juneau, Kenai, Anchorage and Palmer, as a federal public defender statewide, and as a sole practitioner since 1994. I have been an active member of the Alaska Bar, serving on the Criminal Rules committee, the Alaska Association of Trial Attorneys, and as a board member and past president of the Alaska Bar Association, where I was also the discipline/ethics liaison.

As an attorney I have witnessed the effects of the drug statutes/penalties on my clients, their families and the justice system. I have experienced the frustration that everyone in the system feels when we are confounded by the persistent lack of funded treatment beds compared to the money spent on hard beds in prisons. That frustration increases with the knowledge that the recidivism rate is still 2/3, despite an overall increase in average prison sentences and Alaskans under Department of Corrections supervision. Those who testified against SB 56 all agreed that the current drug laws are not effective, and "doubling down" with sentence increases would not work to solve the drug problem in Alaska.

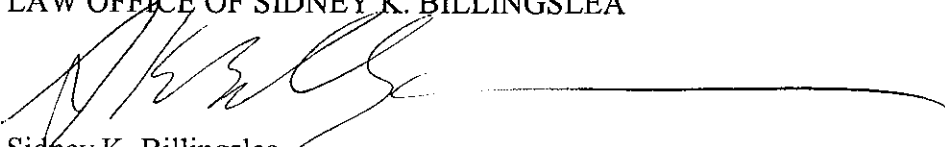
In 1982 when the Alaska drug statutes were last revised, 1 in 90 Alaskans was under supervision: in 2009 1 in 36 Alaskans was under DOC supervision, either by incarceration or probation. This is an astounding number of citizens who are stigmatized by felony convictions. The collateral consequences of felony convictions for "any amount" of controlled substance in schedules IA and IIA are devastating: no vote, no jury service, no student loans, severe lack of housing and employment opportunity, travel limitations, loss of family support and incarceration to name but a few.

Those who would rely on the judgment of individual prosecutors to sort out who gets labeled a felon for “any amount” are, in my opinion, shifting too much discretion and responsibility onto busy line lawyers and defense attorney skills in advocacy. This leads to a lack of uniformity and predictability in a justice system already viewed as being unfair. It frankly makes no difference (other than the prison time) if a person gets a “deal” for a C felony vs. a B felony or an A felony. The collateral consequences are the same. Plea bargains have been a poor substitute for the changes proposed in your bill. They are simply the tools we have had to make do with in attempting to reach just results for individuals.

SB 56 offers drug offenders an opportunity to get clean and lead productive lives without the crippling setbacks of a felony conviction. We know from our experience with DUI laws that offering opportunities like limited licenses to drive on proof of compliance with treatment and employment reduces other crime – like driving with a suspended license – and promotes rehabilitation. We know that statistically first time DUI offenders typically do not reoffend; it takes three DUIs within 10 years to make a felon. SB 56 has a look back of five years, where a person may be convicted of a felony if he or she commits a third possession after two or more priors in the preceding five years. It is my opinion that these look backs serve to protect the public from an offender whose rehabilitation has failed.

In closing, the data support SB 56. The opponents appear to rely on anecdotes and fear. But even the opponents testified that the current laws do not work. Thank you for your attention.

Very truly yours,  
LAW OFFICE OF SIDNEY K. BILLINGSLEA

  
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