



**central peninsula behavioral health**  
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March 15, 2013

The Honorable Pete Kelly  
Co-Chair Senate Finance Committee  
State Capitol, Room 532  
Juneau, AK 99801-1182

The Honorable Kevin Meyer  
Co-Chair House HESS Committee  
State Capitol, Room 532  
Juneau, AK 99801-1182

**RE: CS for Senate Bill 56(JUD)**

Dear Senators Kelly and Meyer:

The purpose of this letter is to lend support to Senator Dyson's efforts to reclassify small quantity possession charges of schedule IA and IIA substances from a C Felony to a Class A Misdemeanor. As the Director of Behavioral Health for Central Peninsula Hospital I have the honor of running Serenity House Treatment Center, which is one of a scarce few residential programs in Alaska designed to address addiction.

Inarguably drug abuse rates are climbing and the so called "War on Drugs", which relies on intensive legal sanctions, has failed to turn the tide. Part of the problem is we have lied to ourselves about who an addict really is. Addicts are not some mysterious shifty character in the night but rather they are our children or our neighbor's children. Our typical admission to residential treatment is under 25 years old, raised in our communities, and often the parent of at least one child under five years old. As a society we have reached out to slap this already disenfranchised group instead of reaching out with a hand of compassion. Addiction is a *medical problem*, while addicts do illegal acts; we can no longer deny that at its core addiction is biologically based.

Those convicted of MICS-4 represent the fastest growing subsection of the prison population and costs nearly \$50,000 each to incarcerate for one year. As I watch treatment centers struggle under ever increasing budget pressure and cuts, I can only dream about what we could do with even a fraction of that funding. Treatment outcome data tells us that we could make real and lasting changes in our community.

At the individual level, it is heartbreaking to see the life obstacles that are created by felony convictions. Most obvious are the barriers in employment; many of the North Slope hiring systems eliminate those with felony convictions. As a treatment center, we can attest to the miracle of someone's recovery but cannot employ them for five years due to the regulations disallowing health and social service workers to have felony convictions. These obstacles typically relegate them to the

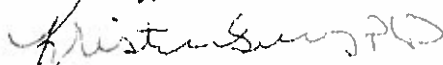
lowest paying jobs such as food service or seasonal fish processing. The financial pressures build as they are also ineligible for food stamps and temporary assistance. Life advancement opportunities become further limited as they lose access to some types of student aid. Many housing programs eliminate candidates based on background checks, resulting in extremely substandard housing. The net result is in an inability to provide for themselves and their families. As a group, they place extreme pressure on other social systems such as churches, food pantries, and local donations. The stresses and pressure drive return to drug use and build the temptations of illegal acts. Is this the punishment we intend?

There is a brighter option. Our agency enjoys a positive working relationship with the Alcohol Safety Action Program (ASAP), which monitors the treatment compliance of those convicted of misdemeanors. The beauty of this program is that it allows clients to choose among trained treatment providers. Treatment professionals work with clients in the development of individualized treatment plans and goal setting, while ASAP monitors and reports their compliance. This is in stark contrast to the limited programming made available to felony offenders, which is typically punitive in nature and often confuses the advocacy role of a counselor with that of a monitoring or enforcement official.

Many arguments can be made against this legislation; it is "soft on crime" or imposes punishment that is insufficient to dissuade individuals from drug use. With 15 years experience in the treatment of addiction, I can attest that fear of consequences alone will always be insufficient to alter addictive behavior. People with addiction are compulsively engaging in acts which could cost them their very lives and they remain unable to stop. The only true road to change involves developing recovery skills and re-aligning life supports to sustain recovery.

Thank you for your time. I am available to provide you with information or answer any questions you might have as you consider this legislation. I urge the Senate Finance Committee to pass CSSB 56 from committee.

Sincerely,



Kristie Sellers, Ph.D.  
Director of Behavior Health  
Central Peninsula Hospital/Serenity House

Cc: Senate Finance Committee Members  
Senator Fred Dyson

April 03, 2013  
Sen. Fred Dyson  
SB 56

Senator Dyson,

I applaud someone taking the initiative to address a DOC that is bursting at the seams due to incarceration of non-violent criminals. The re-classification of certain crimes will enhance Corrections ability to focus on those individuals truly in need of incarceration and lesson the burden to the taxpayer. An additional step now utilized by most states is an expunction statute which allows felons that have not committed physical violent crimes to have their records expunged.

In doing so, there is a dramatic reduction in recidivism by these felons who are now enabled to secure work and not hindered by their non-violent felony record. The selection of those who would be applicable to expunction of course would be for non-physical violent first time felons that have successfully completed probation and have no re-occurring criminal issues. This often targets individuals that have no history of criminal activity and had a one-time error in judgment that will most likely never be repeated.

If interested, you might look at the State of Oregon's expunction statute given; it is within the same Supreme Court judicial district. I wish you luck in your endeavor.

Sincerely,

Mike Moore  
Retired Law Enforcement & Corrections Officer

**Chuck Kopp**

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**Subject:** FW: SB 56 in House Judiciary Committee

**From:** ODIN BRUDIE [<mailto:odin@gci.net>]

**Sent:** Saturday, April 06, 2013 5:16 PM

**To:** Rep. Max Gruenberg; Rep. Bob Lynn; Rep. Neal Foster; Rep. Gabrielle LeDoux; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Charisse Millett; Rep. Wes Keller

**Subject:** SB 56 in House Judiciary Committee

Dear Honorable Representatives:

On Monday you will be hearing Senate Bill 56, "An Act relating to certain crimes involving controlled substances; and providing for an effective date."

I urge you to recommend passage of this bill, and to apply an (retroactive) effective date of January 1, 2013, if that is possible.

Federal and State prosecutors are effectively filling our State prisons with non-violent offenders. Rather than simply incarcerating them and bearing this cost for many years, we should strive to solve the problem through rehabilitation and reform, the options for which are being dismissed by State and Federal prosecutors.

I believe we could go further than this bill to make it so individuals convicted of felony drug misconduct for the first time are not the ones filling our prisons. Within the past year, an alarming number of young Juneau men and women have been arrested on felony drug charges. The sentences being handed out are draconian and extreme. My 23-year old son is among those convicted this winter on drug charges. A first-time offender, he is now a felon facing a 10 year sentence! This is a One Strike and You're Out approach, and a sure-fire way to destroy individuals, destroy families, and fill our prisons at public cost.

I am supporting this bill because, if nothing else, it seeks to fix a portion of a badly broken administrative, judicial and corrective system with respect to illegal drug charges.

Thank You and Sincerely,

Odin Brudie  
51 6th St.  
Juneau, AK 99801  
[odin@gci.net](mailto:odin@gci.net)

Carmen L. Gutierrez  
529 W 19th Avenue  
Anchorage, Alaska 99503  
907-301-6650

March 3, 2013

Senator Fred Dyson  
State Capital, Room 121  
Juneau, Alaska 99801

Re: Senate Bill 56

To the Honorable Senator Dyson,

This letter is written to voice my strong support for Senate Bill 56. Given the importance of this issue to the health and public safety of all Alaskans, I would be present in Juneau to testify personally if it were not for the fact that on the day of the hearing I will be out of the country with no access to phone or internet.

I am a second generation born Alaskan who has lived and worked in Alaska all my life. I was criminal defense attorney for 24 years and then with the Department of Corrections (DOC), first, as Special Assistant to the Commissioner and then as Deputy Commissioner for Prisoner Rehabilitation and Reentry until my recent retirement on December 31, 2012. During my career, I witnessed the destruction of young lives as a result of felony labeling and incarceration that occurred primarily because society decided it was appropriate to use incarceration to punish people we were mad at instead of using expensive prison beds to house people we were afraid of. Because of the State's growing propensity for incarcerating nonviolent offenders, the number of nonviolent incarcerated offenders has increased from 42% in 2002 to 62% in 2011. Furthermore, DOC's annual operating budget has grown consistently over the years. Since 2005, DOC's budget grew from \$166.698.3 to 323.191.7 in 2013. This is an average of more than 5.5% growth each year. DOC's agency operations account for the state's fifth highest user of GF funds exceeded only by the Departments of Health and Social Services, Education and Early Childhood Development, the University of Alaska and Transportation.

As you well know, the number of Alaskans being charged and convicted as felony drug offenders is growing each year. This is illustrated by the following facts:  
(1) Incarceration for both misdemeanor and felony drug offenses has increased by 63% since 2002, from 967 admissions to 1,574 in 2010;

(2) during this same period, admissions for felony drug offenses have risen by over 81%; and,  
(3) in 2011, 348 admissions for Misconduct Involving a Controlled Substance (possession), a class C felony offense, were for offenders between the ages of 18 to 29 years of age.

Moreover, the average length of stay in prison for a felony offender has increased during the last ten years. In 2002, the average length of stay for a felon was 6.60 years. By 2011, that had grown to 7.20 years.

The increased cost, the increased length of stay and the increased number of offenders being labelled for life convicted felons may be well and fine if our approaches were effective in reducing criminal recidivism. Unfortunately, research shows this is not the case. In November 2011, the Alaska Judicial Council updated its 2007 recidivism study. The updated study reports that Alaska's recidivism rates have not improved. Two out of three Alaskans return to prison for a probation violation and or a new arrest within the first three years of their release. Given these poor outcomes, Alaskans are clearly not receiving good value for the criminal justice dollars spent.

Today, Alaska is at a crossroads. DOC opened the Goose Creek Correctional Center in 2012 at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. If the state's prison population continues to grow at its current rate of 3% per year, the state's prisons will be operating, yet again, at full capacity by 2016, just three years from now. This creates an inescapable reality; the state must today either start planning to build a new prison at huge cost to Alaskans, recommit to incarcerating out-of-state, or look at proven best practice approaches that more effectively address criminality, reduce recidivism and thereby build healthier, safer Alaskan communities.

I respectfully submit that SB 56, a bill that would reduce from a felony to a Class A Misdemeanor, the simple possession of most controlled substances, is a sound public safety minded strategy. This legislation is very likely to reduce correction costs and most importantly would provide individuals involved in the drug milieu with an opportunity for meaningful rehabilitation. I say "meaningful" because given the escalating penalties proposed in the bill if an individual is not willing to demonstrate an ability to conform their conduct to the law, sanctions will increase and eventually they will earn the lifetime label of "convicted felon". But before a person is labelled a felon for possession, there ought to be an opportunity for meaningful reformation. A growing number of judges in Alaska and across the nation recognize that incarceration is not the best approach to address addiction issues. Whether the perspective in support of SB 56 is more effective rehabilitation or as a way to cut state spending, this bill can only serve to reduce recidivism, cut correctional costs and improve the health and safety of Alaska's communities. Our current practices have certainly not been proven effective in this regard.

Thank you for any consideration you may give my comments and perspective.

Sincerely yours,

Carmen L. Gutierrez

Advisory Board on Alcoholism  
and Drug Abuse



Alaska Mental Health Board

ALASKA MENTAL HEALTH BOARD  
ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE  
431 NORTH FRANKLIN STREET, SUITE 200  
JUNEAU, ALASKA 99801  
(907) 465-8920

March 5, 2013

Senator Fred Dyson  
Alaska Capitol Room  
Juneau, Alaska 99801

Re: SB56 — Certain Crimes Involving Controlled Substances

Dear Senator Dyson,

The Advisory Board on Alcoholism and Drug Abuse and Alaska Mental Health Board support SB 56 reducing the penalty for first offenses involving possession of small amounts Schedule IIA controlled substances. There is ample research showing that traditional justice responses – jail and probation – for these types of offenses are less effective than community-based responses. SB 56 protects our communities by ensuring an appropriate justice response while reserving prison space for more serious offenders.

Long jail sentences for first offenders have not been shown to improve public safety or decrease the incidence of drug crimes. They do increase the costs to the justice and corrections systems and to communities and families as a result of diminished economic and employment opportunities for returning offenders. What have proven effective in Alaska and nationally is community-based probation, education, treatment, and accountability programs. For example, participants in the Anchorage Wellness Court for misdemeanor alcohol offenses have shown to be less likely to reoffend than offenders subject to traditional sentencing responses.<sup>1</sup>

By making first offenses involving possession of Schedule IIA controlled substances a Class A Misdemeanor, SB 56 preserves the courts' discretion to impose a jail sentence where appropriate, while also offering opportunities for effective community-based responses — participation in education and treatment programs, alcohol/drug testing, and community work service — through probation. Courts and communities have the chance, with SB 56, to use the conditions of probation available for misdemeanor offenses as opportunities for intervention and targeted prevention to divert first offenders from potential addiction and promote healthier choices.

The Boards appreciate your work on behalf of Alaskans.

Sincerely,

Michael Kerosky, Chairman  
Advisory Board on Alcoholism and Drug Abuse

Brenda Moore, Chairperson  
Alaska Mental Health Board

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<sup>1</sup> *Impact and Cost-Benefit Analysis of the Anchorage Wellness Court*, Urban Institute Justice Policy Center (2008) available online at [http://www.urban.org/UploadedPDF/411746\\_anchorage\\_wellness.pdf](http://www.urban.org/UploadedPDF/411746_anchorage_wellness.pdf).



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

  
Sidney K. Billingslea



March 25, 2013

The Honorable Fred Dyson  
Alaska State Senate  
State Capitol Rm 121  
120 4<sup>th</sup> Street, Mail Stop: 3100  
Juneau AK 99801-1182

Dear Senator Dyson:

I am writing on behalf of the Alaska Peace Officers Association (APOA), regarding Senate Bill 56, *"An Act relating to certain crimes involving controlled substances; and providing for an effective date"*.

The APOA Legislative Committee recently reviewed this proposed legislation and opposes this bill as it fails to take into consideration any other felonies committed by a person charged under this offense and whether or not the person may have a history of violent behavior. The changes put forth by SB 56 simply don't take into consideration the variety of criminal activities which are driven by addiction and the cost of funding that addiction.

Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist you in your work for our state.

Sincerely,

John Lucking, Jr.  
State President

## Chuck Kopp

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**From:** pbrown <pbrown@andvsa.org>  
**Sent:** Monday, April 08, 2013 2:52 PM  
**To:** Sen. Fred Dyson  
**Cc:** Rep. Charisse Millett; Chuck Kopp; Rep. Wes Keller  
**Subject:** SB 56 comments from ED at ANDVSA  
**Attachments:** Peggy Brown (pbrown@andvsa.org).vcf

Dear Senator Dyson,

I just testified in HJUD on SB56. I sincerely apologize for coming to this so late. When we originally reviewed the bill, we saw that our initial concern regarding "predator drugs" such as Rohypnol, used to incapacitate victims, was a schedule IVA substance and not affected by your bill. However, after further research, we saw that GHB and GBL, are in fact, predator drugs listed as schedule IA and thus pertinent to the bill.

After the hearing, I spoke with Mr. Kopp and Annie Carpeneti and we agreed it would be appropriate to carve out these drugs and keep possession of them a felony, not subject to reclassification under this bill. I know your intent would never be to lessen the accountability of predators who use these drugs to sexually abuse children, women and men. With this change, I sincerely hope SB56 moves forward.



"By believing passionately in something that still does not exist, we create it."

Peggy Brown, Executive Director  
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& Sexual Assault  
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