

March 8, 2016

Senator Lesil McGuire, Judiciary Committee Chairperson

Senator McGuire, and the Judiciary Committee in whole, I write to you all in hopes that when SB91 comes thru your committee, that several concerns can be addressed and hopefully taken care of. I hope you have read the Dec 2015 Justice Reinvestment Report that the bill was based upon. It was originally done by the Alaska Criminal Justice Commission, and this was their task to help and start bring Alaska's criminal justice system in line with what is more reasonable with today's realistic views and the Alaska budget. Thus it made many suggestions, & 21 were infact agreed upon by the entire commission, while several others were agreed upon by the vast majority. SB91 covers most of the 21 points, however in doing so, it ignores equal consideration for one group of offenders, which was included as Additional Recommendation 4. This group of citizens is those known as "sexual felony offenders", but not just those whom commit a felony sex offense, as there are several felony sex offenses, which are not sexual felonies. A prime example of this is the contact sex offense of Sexual Abuse of a Minor in the 3rd degree, SAM3 which is punished as a "normal" class C felony conviction, under 12.55.125(e) and not 12.55.125(i)(4). Under Add. Rec. 4 it suggests that class C and B sexual felony punishments be rolled back to the Pre-2006 range.

You may not know, but in 2006, the legislature passed SB218, on the premise that sex offenders had over 300 prior uncharged offenses on over 100 unknown victims before they are caught, and a very high rate of recidivism. However, this is not the case, and was known to be misleading by the sponsor, based on the studies cited, but still done so anyway. In fact one of the studies cited from the Dept of Justice for other statistics, actual stated that sex offenders had the LOWEST rate of recidivism of all offenders at about 5% in the first 3 yrs. The study was dealing with Contact sex offenses, as at that time, non-contact offenses like possession of child pornography were either not illegal yet, or not felonies, depending on the state or federal statute. As the 2015 report cited, the most recent Alaska study, that is given to Judges, Prosecutors, and legislatures, shows that the recidivism rate in Alaska is only 2% for sex offenders, which is drastically lower than ANY other class or group of offender. Thus the exponential increase seen in 2006 was clearly not justified, where we see class C 1st time offenders without any aggravators presumptive upto 12 yrs, which is much greater than a 1st time class A violent offender, including what is considered those convicted of the "MOST SERIOUS FELONY" which would include any class A offense under AS 11.41 (see 12.55.185 (10)) as they only get a minimum of 5 yrs under 12.55.125(b)(Unclassified) and 5-8 yrs or 7-11 (c) depending if weapon is involved (Class A). Yet as you see under AS 11.81.250 which defines how harmful and serious each class of felony is, Class C felonies are the least harmful and serious of all felonies, while class A felonies are very harmful and serious and involve a lot of violence.

Yet under SB91 those convicted of Class A violent felonies are now going to get lower/reduced sentences, while those convicted of a class C or B "sexual felony" they are denied reasonable treatment, when they are a MUCH lower threat to the community upon release, both nationwide and in the state. It has long been said that, the Equality guaranteed by the Equal Protection Clauses of the Federal and State Constitution (Art 1, §1) is equally under the same condition and among persons similarly situated. Which in this case would be all persons convicted of the same class of offense, ie all Class C convictions. I, for example am serving 12 yrs, for a class C conviction, and very upset when a class C conviction for all others similarly situated have a MAXIMUM of 5 years. My offense, is a non-contact, non-violent offense, which I was not even in Alaska during the alleged download dates, yet the corrupt DA's office charged me, and

the Kenai Court convicted me, because my appointed lawyer told me I was a fool if I let a jury see any images of child porn, and even after she told me and my parents that there was no way to get a fair trial in front of my judge, I still agreed to a bench trial. I was only convicted because I had a prior conviction, but even with the fact that one of the images was downloaded while I was in prison in Mn for my original offense, that did not matter to my lawyer, or the court.... That shows how much the criminal justice system needs help in Alaska! The DA knew this info and presented the dates to the Grand Jury, knowing the dates were before I moved to Alaska, but that was OK, and no big deal to her and her ethics... Now I see those that killed people, be with guns over a drug deal gone bad or drunk driving/driving on drugs, and or rich kids beating up homeless people, or drugdealers selling drugs to minors, etc and they are getting less time than I got, and they are getting class A offenses, and are very violent and ruining people lives and destroying families... Yet, the offense I was accused of, had no Alaska Victims, and was non-contact, not violent, and 12 yrs is the minimum I could get, and I am denied my right to MANDATORY good time, that all others get too! Talk about getting screwed. So I will serve 12 yrs, which is equal to 18 yrs for everyone else.... And then I see the pretty young girl on TV that was drinking and doing drugs and ran over the man on a bike and got the best deal in the world. She got sentenced to 2 yrs, so she will do 16 months, at max, more like 12, and then furlough out for KILLING a man, and being underage drinking. That sent a real message to all those underage drinkers about not drinking and driving. She got the sub level for a class B and got barely a slap on the wrist for taking another person's life. Consider her sentence to that for a class C first time sexual felony, whom is 2-12 yrs, and then must register for 15 yrs afterwards, and be humiliated and outcast by the community for that entire time. Sex Offender Registration is PUNISHMENT!

Justice needs to be fair and reasonable and equal to all. I ask that you and the committee consider this, and please add the correction to the excessive sentencing for class C and B sexual Felony offenders that was done in 2006, and modify it to the Pre-2006 range or lower, since the other "normal" offenders are getting a lower range from the 2005 range. But even just the pre-2006 range to start is a good start, and then a proper consideration can be done to look into proper and equal treatment even more so, in that all offenders of each class are punished the same ie, all class C felony offenders are punished the same, and all have a max of 5 yrs, not most have 5 yrs and some have 99 yrs. That is how the Alaska laws were for about 30 years, until Senator French felt his hatred for a group of offenders was enough to justify excess punishment for them. IE SB85 from 2003, which the State and Legislature is currently being sued over the Constitutionality of it, along with SB218 and its denial of many issues, including the Fair and Just Treatment Clause under Art. I, §7. My concern if SB91 ignores the rights of sex offenders as it currently does, and the Fact of the dynamicly low recidivism rate, and how it directly affects sentencing, the same issue about Fair and Just Treatment might be an arguement for SB91 and the concern of the denial of Equal Protection to all offenders, just because some are hated more by the community and seen as politically unpopular by the history of negative legislation.

I hope this is helpful. I also hope that some of the sections will be allowed to be done rectroactively by Judges if they feel that it should be allowed, when done by motion. The original Sb91, had a 5 yr modification to 12.55.088 which I think should be added to the current version, with the "rollback" of the sentencing for sexual felony offenders to pre-2006 ranges, as it will give the Judge the option to reconsider if the sentence was too long for the harm done, especially in cases where by statute good time is denied, which is a direct liberty right and interest whi the court should regulate not the legislature.

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