



Alaska Association of Chiefs of Police

Honorable Senator Mackinnon
Senate Finance Committee

March 27, 2017

This letter is issued with the support and approval of the AACOP Board of Directors.

We appreciate the efforts made with Senate Bill 54 (SB54) to correct issues with Senate Bill 91 (SB91) particularly those implementing discretion to impose jail time as a penalty for first time Class C felonies; recriminalizing Violating Conditions of Release; and progressive penalties for Theft in the Fourth Degree.

Though there are other areas that may deserve consideration at a future time, these initial changes are a positive step towards establishing a balance between the intentions of SB91 and the real outcomes experienced by law enforcement and the public that we serve. As such we advocate for and support these changes.

Under SB91, all first time convictions for Class C felonies were subject to probation with no 'jail time'. This eliminated prosecutorial and judicial discretion which was often times effective in imposing suspended sentences with conditions, such as alcohol or drug treatment. In many ways, the criminal justice system was practicing rehabilitative justice prior to SB91 through this process.

In reality, a defendant before the court may have a lengthy history of behaviors that may indicate an escalating pattern. Prosecutors are in a position to assess how this pattern impacts the risk to public safety. Through this process, I believe prosecutors and judges will use the minimum sentencing guidelines in a positive way to impact the foundational issues that brought the defendant before the court.

Working in a small community in Western Alaska has brought a great understanding of issues impacting recidivism. In my community, 42% of all calls for service involve alcohol; and a minimum of 92% of all arrests are alcohol related. The theory holds true: consumption of alcohol frequently leads to poor decision making. These decisions directly impact the safety and security of the community.

In response, courts commonly impose behavioral conditions in an attempt to influence future decision making; and to address the root cause of the current behavior. Predictably, one of these is to limit access to, and consumption of alcohol.

This has several effects. The first is to start the process of rehabilitative change. If the person abides by the conditions, they are less likely to re-offend. However, if they do not it allows law enforcement to intervene at the lowest possible level and stop the behavior from escalating. This protects the person

from further poor decisions; and the public from the effects of those behaviors. In the event of continued poor decision making, it is important that progressive sanctions are available to help reshape perspectives. These sanctions can be used to provide incentives that may motivate the person to accept help in changing their personal behaviors.

Under SB91, VCOR is a violation with a maximum fine of \$1000. Monetary fines that will likely never be paid do not achieve this end.

As such, the 're-criminalization' of Violating Conditions of Release does serve the intents of SB91 in promoting rehabilitative changes in behavior. I believe that if properly administered by prosecutors and the judiciary, that the changes to VCOR will have positive outcomes in offender rehabilitation and in the reduction of recidivism.

Between the passage of SB91 and the present, we have seen virtually all Class 'B' misdemeanor offenses dismissed at arraignment. The District Attorney's Office (DAO) is reticent to prosecute these types of crimes as the penalties are disproportionate to resources. This is particularly vexing in Theft on the Fourth Degree cases. Currently, even after three convictions, a sentence for a Theft IV is only elevated to probation.

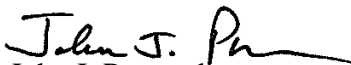
As Class B misdemeanors are nearly universally dismissed, the requisite number of convictions to warrant a sentence of probation is not attained. This allows an offender to re-offend with impunity. The addition of minimal and progressive sentencing structure may provide our District Attorneys an effective platform to change this balance and to dissuade repeated recidivism.

Law enforcement throughout the State has worked diligently to subscribe to the tenants of SB91. However as in most instances where rapid change is implemented, the 'testing ground' is in the field. This is where law enforcement operates. In this process we have identified obstacles and issues to maintaining public order and individual safety. It is in this regard that we offer the aforementioned comments.

If you should have questions or comments, please feel free to contact me at jpapasodora@nomealaska.org or at (907)443-5262.

We appreciate your service to the State of Alaska and concern for our citizens.

With Sincere Regards,

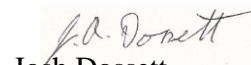


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