



Governor Michael J. Dunleavy STATE OF ALASKA

January 22, 2019

The Honorable Cathy Giessel
Senate President
Alaska State Senate
Alaska State Capitol Room 111
Juneau, AK 99801

Dear Senate President Giessel:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the classification of crimes, sentencing, and probation.

By far, the most serious threat facing Alaska is crime. In 2017, the rate of crime increased across all major categories from 2016 – violent crimes, including murder, rape, robbery, and assault increased by seven percent; property crimes such as car theft and burglary rose by six percent. These statistics are even more dramatic when compared to the rate of crime in 2013. In 2017, property crime was up by 22 percent and violent crime was up 34 percent when compared to crime statistics from 2013. Alaskans do not feel safe in their homes, businesses are being targeted, and communities are impacted by senseless acts of violence.

One major event occurred as the rate of crime began to rise – the passage of Senate Bill 91 (SB 91). SB 91 has limited our ability to address the increase in crime and how we deal with criminals. Most importantly, SB 91 has contributed to the loss of public trust in our criminal justice system and our ability to keep Alaskans safe.

We need to ensure that public safety officers, prosecutors, courts, and correctional institutions have the tools they need to keep our communities safe and we need to send the message to criminals that Alaskans will no longer be victims. We need a strong criminal justice system – not a weak one. We must repeal SB 91 and put in place laws that protect Alaskans from those who choose to harm them.

This bill repeals provisions of SB 91 that relate to the classification of crimes, sentencing, and probation of offenders. Measures in this bill will increase sentencing and probation lengths for most offenses, create additional tools which will allow the State to identify repeat offenders and those that threaten others, strengthen penalties for drug traffickers that prey on Alaskans through the distribution of drugs, and finally, create efficiencies within the criminal justice system – giving our prosecutors and courts the tools they need.

Increased Sentencing Ranges and Probation Lengths

This bill will reenact the sentencing ranges that were in law prior to the passage of SB 91 which will effectively increase the range of sentences by approximately two years for most Class A, B, and C felonies. The bill will remove the 30-day sentencing cap for misdemeanors and, once again, give judges the discretion to sentence a person who is convicted of a Class A misdemeanor to up to one year in jail. It will return the maximum sentence for Class B misdemeanors to 90 days Likewise, maximum probation lengths are returned to lengths allowable before the passage of SB 91. The maximum probation term for sex offenders will be 25 years and the maximum probation term for all other offenses will be 10 years. The increased sentencing ranges and probation terms will allow judges the discretion to impose sentences that are appropriate for the conduct and circumstances of each case.

Additional Tools to Address Repeat Offenders and Threats

The State's current laws are inadequate when it comes to addressing threats made to others – especially in our schools. In this digital age, threats can be communicated through numerous platforms and can have a devastating impact on those who receive them. The bill proposes to enact a threat statute that will better address threats that place others in fear of physical injury or cause the evacuation of public places.

Additionally, current law requires a person to submit a DNA sample upon arrest and conviction of certain crimes. This sample is checked against a national database and may help determine whether a person is suspected of committing other crimes in another state. It is currently a crime to refuse to submit a DNA sample upon conviction, however, there is no penalty for refusing to submit a sample upon arrest. The bill will close this loophole and make it a Class A misdemeanor to refuse to submit a DNA sample when a person is arrested for a qualifying offense.

Stronger Penalties for Drug Traffickers

This legislation will reenact the drug offense structure that was in place prior to SB 91, returning the focus from the quantity of a distributed drug to the nature of the drug itself. This structure will better address the danger of certain types of drugs and return discretion to judges to assess the significance of multiple factors such as the purity, the street value in a particular community, and the relative availability or scarcity of the drug in a particular community. This legislation also reclassifies distribution crimes to higher level offenses. Finally, this legislation will reenact the enhanced sentencing ranges for making methamphetamine around children or engaging children in the sale of methamphetamine. The process of making methamphetamine is extremely dangerous and is often done in a person's dwelling putting everyone in the area, including children, at risk.

Criminal Justice Efficiencies

Finally, it is critical that our criminal justice system is evaluated to improve processes and find efficiencies. To that end, the bill streamlines the grand jury process by allowing prosecutors to use a person's "rap sheet" or Alaska Public Safety Information Network report to prove the existence of prior convictions when prior convictions are an element of an offense. For example, if a person has two prior convictions for assault, the third assault will be a felony. This will require proof of the existence of the prior convictions. Allowing the use of a rap sheet at the indictment phase of the case, instead of requiring certified judgments, which may take days to obtain, will expedite the process and protect the public by keeping dangerous offenders in State custody while awaiting trial.

The bill proposes to allow the court system to give the Department of Public Safety information about those who have been involuntarily committed and, therefore, cannot possess firearms. Under current law, the court system may only provide information from 2014 forward. The bill will allow the court system to provide information prior to 2014 so that the Department of Public Safety may have a more complete record of who these prohibited individuals are and better protect the public.

I urge your prompt and favorable action on this measure.

Sincerely,



Michael J. Dunleavy
Governor

Enclosures