



February 1, 2022

The Honorable Neal Foster
House Finance Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

The Honorable Kelly Merrick
House Finance Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Re: HB 246: Commonsense change promotes privacy and equality

Dear Co-Chairs Foster and Merrick, and Members of the House Finance Committee:

House Bill (HB) 246, which allows Alaskans with prior convictions for low-level, standalone marijuana crimes—conduct that has been legal for nearly seven years—to limit access to those records, is a simple, commonsense change that will protect privacy, and remove barriers to jobs, housing, and education. HB 246 is a good first step to vindicate privacy rights, address a legacy of racial disparity in drug crime enforcement, and lower barriers for people with prior criminal convictions to fairly participate in society.

In the six years before the legalization of marijuana use in Alaska, our state's marijuana laws were being disproportionately enforced, as evidenced by the following:

- Alaska Natives or American Indians were more than 1.5 times as likely to be arrested for marijuana possession, relative to their share of Alaska's population.
- Black people were more than twice as likely to be arrested for marijuana possession, relative to their share of Alaska's population.¹

According to statewide Uniform Crime Report (UCR) data on arrests, the six years before the vote to legalize marijuana (2008–2013) averaged more than 900 arrests

¹ See Attachment 1, ACLU of Alaska analysis of Uniform Crime Report (UCR) demographic data for marijuana possession crimes in Alaska, 2008–2013.

for marijuana possession per year.² Comparing arrest demographics with the data from the 2010 census, which falls within that six-year period, those reported as “white”³ were 67% of Alaska’s total population, and 68% of arrests for marijuana possession. By contrast, those reported as “Indian,” a category in the UCR which includes Alaska Native and American Indian populations, comprise 15% of the statewide population, but 23% of arrests: one-and-one-half times as large. Similarly, those reported as “Black” were only 3% of the population but 7% of the arrests—a proportion more than two times as large.

These findings accord with national numbers: despite marijuana use at about the same rate, and despite an increasing number of states legalizing or decriminalizing marijuana, Black people are nearly four times more likely to be arrested for marijuana possession.⁴

Given well-documented patterns of disparate enforcement of marijuana laws, legalization marked an important breakthrough for fairness and equality. HB 246 would build on this breakthrough by addressing the historical inequities in enforcement of Alaska’s drug laws. It does not represent Alaskan values to deny people a fair shake whose only crime was possessing a substance that is now legal to hold, and from the sale of which some people can legally profit.

Additionally, helping people with criminal convictions find stable employment and housing increases public safety and reduces recidivism. But the challenges that face people with any kind of conviction are severe. People with criminal convictions are drastically less likely to receive a call back from a prospective employer than those without a conviction, and formerly incarcerated people are unemployed at a rate higher than the Great Depression, despite robust labor market participation.⁵ When communities and governments take steps to support people with criminal convictions by reducing barriers to full participation in society, they see positive results. The Alaska Criminal Justice Commission found that reducing the state’s

² Although there is no way to determine whether these were standalone convictions, based on the “hierarchy rule” for reporting data, law enforcement reported only the single most serious offense in an incident for coding purposes. This likely means that the vast majority of marijuana possession arrests are not represented in UCR data because those charges were typically misdemeanors.

³ Note that for census and UCR purposes, “White” can also encompass other minority racial groups not otherwise categorized. See 2010 Census Briefs: The White Population: 2010, (Sep. 2011) <https://www.census.gov/prod/cen2010/briefs/c2010br-05.pdf>.

⁴ American Civil Liberties Union, *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (2020), https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf.

⁵ Prison Policy Initiative, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people* (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

recidivism rate from 2013-17 required investments in services and supports, like housing assistance, employment, and training.⁶

Although HB 246 neither expunges criminal records, nor requires an automatic process for criminal justice agencies to limit access to these records—both measures that would more strongly protect Alaskans’ privacy—we encourage passage of HB 246. For Alaskans whose lives have been derailed over low-level marijuana arrests, particularly disproportionately harmed Alaskans of color, HB 246 is an important tool to help overcome the harmful long-term consequences of a criminal record for actions we no longer hold as criminal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael P. Garvey".

Michael Garvey
Advocacy Director

⁶ Alaska Criminal Justice Commission, 2021 Annual Report (at 16) (Nov. 1, 2021), *available at* <https://www.ajc.state.ak.us/acjc/docs/ar/2021.pdf>.



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Attachment 1

Alaska



Data:

	White	American Indian/Alaska Native	Black/African-American	Asian	Asian Pacific/Hawaiian Islander
% of Marijuana Possession Arrests, 2008-2013	68%	23%	7%	2%	0%
% of State Population, 2010	67%	15%	3%	5%	1%
% of Arrests : % of Population	1.02 : 1	1.55 : 1	2.06 : 1	0.39 : 1	0.02 : 1

Sources:

- Arrest statistics: ACLU of Alaska analysis of Uniform Crime Statistics for Alaska, 2008-2013.
- Population statistics: US Census demographic data for Alaska, 2010.

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Via email to: Representative.Jonathan.Kreiss-Tomkins@akleg.gov



Subject: Support for HB 246 Access To Marijuana Conviction Records

Dear Representative Kreiss-Tomkins:

The Alaska Marijuana Industry Association would like to offer our **support** for HB 246.

We believe that this piece of legislation is an incremental but important step in the right direction towards destigmatizing cannabis consumption. While it is hard for us to identify specific individuals whom this legislation would impact due to confidentiality, we do know anecdotally that public records impact an individual's ability to secure fair housing, fruitful employment, and education opportunity.

It is common knowledge that employers, schools, and landlords use CourtView to perform background checks on applicants. In CourtView a simple marijuana possession charge appears similar to this, "Misconduct-Controlled Substance 6A". Very few understand the drug schedule, and most people performing background checks are unlikely to do the next step of discovery to see that VIA is only marijuana. They will simply put the application aside. Therefore, anything that removes even a small barrier to positive life outcomes, we will support.

We want to thank the sponsor and prior session sponsors of similar legislation and urge its support and passage by both bodies.

Respectfully,

Lacy Wilcox, President
Alaska Marijuana Industry Association

The Alaska Marijuana Industry Association is Alaska's only statewide cannabis industry trade group. Our mission is to promote and advocate for a vibrant and reasonably regulated Alaska-based marijuana industry. The AMIA serves to strengthen and enhance a network of connected, independent, informed, regionally and community directed Alaska marijuana organizations.

www.alaskamia.org