



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>.



AMERICAN CIVIL LIBERTIES UNION
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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.

February 1, 2022

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



Working to Reform Marijuana Laws

Alaska (2022): HB 246, Testimony in support of record sealing for low-level marijuana convictions

My name is Jax James and I serve as the State Policy Manager for the National Organization for the Reform of Marijuana Laws (NORML). I would like to thank the House Finance Committee for considering House Bill 246. NORML is supportive of legislative efforts to ensure record expungement for individuals impacted by the prohibition of marijuana/cannabis.

House Bill 246 would seal the records of those low-level crimes from nine certain types of criminal history background checks, thus reducing barriers to employment and increasing the likelihood of people convicted of low-level crimes to become contributing members of society.

Passage of this legislation will make it so that low-level cannabis offenders are no longer stigmatized and disenfranchised by the collateral consequences of an arrest record for an incident that is no longer a crime. In addition to limiting employment, education, and other opportunities, a criminal record can impose significant psychological and emotional burdens. The stigma of carrying a criminal record dampens an individual's capacity to form positive visions of their own full potential.

It is of the utmost importance that Alaska lawmakers prioritize the process of expungement so as to support Alaskans unjustly harmed by the war on drugs. People with otherwise clean records do not deserve for the rest of their life to be derailed because of a previous cannabis conviction that would not have been prosecuted today.

Those who responsibly consume conventional medications or alcohol while off the job do not suffer sanctions from their employers unless their work performance is adversely impacted. Employers should fairly consider those who have a prior conviction, need access to their medicine, or consume cannabis legally while away from the workplace in a similar manner.

Changes in the legal status of cannabis have not been shown to adversely impact workplace safety. For example, a pair of studies from 2016 find that legalization is associated with greater workforce participation and with fewer workplace absences. A 2020 Occupational Medicine report found "no association" between cannabis use and work-related accidents or injuries.

Alaskans deserve the chance to seek out employment, education, and other opportunities despite prior low-level convictions for a botanical plant that is no longer criminalized. NORML urges Alaska lawmakers to thoughtfully consider and pass HB 246 to ensure that individuals have this chance and can live without the burden and stigma of a criminal record.





February 10, 2022

Via email to: claire.gross@akleg.gov

Subject: Support for HB 246 Access To Marijuana Conviction Records

Dear Representative Kreiss-Tomkins,

I am writing in my role as General Manager for GOOD Cannabis to communicate our support of HB 246.

This proposed legislation is a much needed action that helps to remove the stigmatization of cannabis consumption. It is important that past offenses are viewed in light of our current context - Alaska is a state that recognizes the legal use of recreational cannabis. Much has been said about this issue already, so I will refrain from going into detail, but rather simply offer our strong support for this legislation. Many of our staff members will be closely watching the progress of this bill because we are passionate about the good it will do for the community of Alaska.

We commend all those who had a hand in bringing HB 246 to this point and hope that this legislation will receive broad support.

Sincerely,

A handwritten signature in black ink, appearing to read "T Haynes", with a stylized flourish at the end.

Trevor Haynes
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