



March 30, 2023

The Honorable Matt Claman, Chair
Senate Judiciary Committee
Alaska Capitol Building
Juneau, AK 99801

Re: Senate Bill 64: CONTROLLED SUB.;HOMICIDE;GOOD TIME DEDUC.

Dear Chair Claman and members of the Senate Judiciary Committee,

The ACLU of Alaska writes to express our views on Senate Bill 64, which is intended to respond to the state's crisis of drug-related overdose deaths.

We appreciate the governor's desire to address this crisis. However, we believe the state should focus on evidence-based policies and strategies in ways this bill does not. Drug-induced homicide laws like SB 64 have a long track record of inefficacy and detract from public safety, as we detail below in this letter.

Alaska should focus its energy on proven strategies to reduce lives lost to the overdose crisis. In 2022, the bipartisan U.S. Commission on Combating Synthetic Opioid Trafficking offered a roadmap for reducing overdose deaths, stemming the tide of harmful substances flowing into the state, and creating safer communities.¹ Actions that can be taken to meet the increasingly complex crisis include:

- **Rapid investigation and mapping of overdoses — fatal or non-fatal.** This will help identify the most harmful dealers in our communities and to warn our communities about the circulation of dangerous drugs to reduce harm.
- **Disrupt supply from transnational criminal organizations.** While much of the disruption relies on federal agencies, Alaska's law enforcement entities possess state-specific knowledge needed to conduct or assist effective investigations across systems cited in the report, especially given our unique geography and Anchorage's status as a major cargo hub.
- **Reduce demand through prevention, access to high quality treatment, and recovery supports.** This aligns with goals and strategies in both Alaska's Opioid Response report from 2021-22, and the Governor's Advisory Council on Opioid Remediation recommendations for using opioid settlement funds.² Legislative action or oversight can help ensure these goals are met.

¹ Commission on Combating Synthetic Opioid Trafficking (2022), *Final Report*, https://www.rand.org/pubs/external_publications/EP68838.html.

² Alaska Department of Health (Oct. 1, 2022), *Alaska's Opioid Response 2021-2022*, https://health.alaska.gov/osmap/Documents/AlaskaOpioidResponse_2021-2022.pdf; Governor's Advisory Council on Opioid Remediation (Nov. 1, 2022), *Janssen/Johnson & Johnson (J&J) and Distributors National Opioid Settlement Funds*, <https://law.alaska.gov/pdf/press/221219-GACOR.pdf>.

Notably, the commission **does not recommend new or increased sentences**. Legislation like SB 64 would hurt Alaska’s ability to fight the drug overdose crisis and increase public safety in an effective manner. Reasons for this include:

- **Increased penalties aren’t deterrents:** Research has shown time and again that the certainty or perception of being caught is a far more effective deterrent than the severity of punishment.³
- **Depletion of limited law enforcement and public defender resources:** SB 64 will lead to more complex and costly prosecutions, expending precious state resources that could be used to focus on disrupting the supply at the source. It is also likely to further strain the Public Defender Agency’s resources, especially experienced attorneys who can handle complex felony cases.
- **Drug-induced homicide laws exacerbate the problem:** SB 64 is more likely to be used against people with substance misuse issues and people seeking help than high-level drug dealers, and will deter people from calling for medical assistance.⁴ Eighty percent of people incarcerated in Alaska have a substance use disorder.⁵ This bill will make that problem worse. Additionally, in jurisdictions where legislation like SB 64 has been passed, overdose deaths have *increased* — one of many reasons why a group of elected prosecutors recommended not using drug-induced homicide laws.⁶
- **Eliminating good time eligibility will lead to more unhealthy prisons:** Good time deductions are an incentive for incarcerated people to engage in rehabilitative programming and avoid engaging in harmful behavior. Taking away hope creates less healthy, more dangerous environments. Even if SB 64 works as intended, the bill would place dealers in facilities where the vast majority of people have substance use disorders, with no incentive for good behavior.

Any single loss of life is a tragedy. But Alaska must do more than punish. For the safety of our communities, we need to prioritize our resources for evidence-based strategies that can fight the overdose epidemic, reduce deaths, and permanently reduce demand without harming people with substance use disorders. Thank you for your consideration of our views. If you have any questions, please do not hesitate to contact me at mgarvey@acluak.org.

Sincerely,



Michael P. Garvey
Advocacy Director

³ National Institute of Justice (2016), *Five Things About Deterrence*, U.S. Department of Justice - Office of Justice Programs, <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.

⁴ Drug Policy Alliance (2017), *An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane*, 5, https://drugpolicy.org/sites/default/files/dpa_drug_induced_homicide_report_0.pdf.

⁵ Alaska Department of Corrections presentation to House Finance Subcommittee (Feb. 14, 2023), 32, https://www.akleg.gov/basis/get_documents.asp?session=33&docid=731.

⁶ Fair and Just Prosecution (2022), *Drug-Induced Homicide Prosecutions*, 9, <https://fairandjustprosecution.org/wp-content/uploads/2022/07/FJP-Drug-Induced-Homicide-Brief.pdf>.