

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

April 30, 2024

8:03 a.m.

**MEMBERS PRESENT**

Representative CJ McCormick, Chair  
Representative Kevin McCabe, Vice Chair  
Representative Tom McKay  
Representative Thomas Baker  
Representative Justin Ruffridge  
Representative Rebecca Himschoot  
Representative Donna Mears

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 398

"An Act relating to controlled substances."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 398

SHORT TITLE: CONTROLLED SUBS: DAY CARE/SHELTER/REHAB

SPONSOR(S): RULES

04/22/24	(H)	READ THE FIRST TIME - REFERRALS
04/22/24	(H)	CRA
04/30/24	(H)	CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE CRAIG JOHNSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 398.

ISSAC SCHLOSSER, Staff  
Representative Craig Johnson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 398, on behalf of Representative Johnson, prime sponsor.

KACI SCHROEDER, Assistant Attorney General  
Criminal Division (Legal Services Section)  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 398.

NANCY MEADE, General Counsel  
Office of the Administrative Director  
Alaska Court System

**POSITION STATEMENT:** Answered questions during the hearing on HB 398.

#### **ACTION NARRATIVE**

[8:03:34 AM](#)

**CHAIR MCCORMICK** called the House Community and Regional Affairs Standing Committee meeting to order at 8:03 a.m. Representatives McCabe, McKay, Baker, Ruffridge, Himschoot, Mears, and McCormick were present at the call to order.

#### **HB 398-CONTROLLED SUBS: DAY CARE/SHELTER/REHAB**

[8:04:15 AM](#)

**CHAIR MCCORMICK** announced that the only order of business would be HOUSE BILL NO. 398, "An Act relating to controlled substances."

[8:04:40 AM](#)

**REPRESENTATIVE CRAIG JOHNSON**, Alaska State Legislature, as prime sponsor, presented HB 398. He shared the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

House Bill 398 amends existing laws regarding drug-free zones that prohibit controlled substances in certain areas within a municipality. HB 398 enhances the protection of vulnerable groups, including children, homeless individuals, and those recovering from drug abuse, while also helping communities

reclaim their public spaces from drug-related activities.

HB 398 designates that within 500 feet of daycare centers, shelters for the homeless, and treatment and rehabilitation centers as additional drug-free zones, alongside the already included schools, school buses, and recreation or youth centers. By prohibiting the delivery, possession, and manufacture of controlled substances within specified distances of these locations, HB 398 seeks to safeguard vulnerable populations, such as children and individuals in recovery, from exposure to drugs and drug-related activities that could jeopardize their well-being and undermine community safety.

Furthermore, HB 398 amends affirmative defense section of statute that acknowledge the importance of private residences as safe havens for individuals not distributing, dispensing, or possessing with intent to distribute or dispense. This reinforces the message that drug-related activities have no place in areas meant to support children, housing stability, or recovery.

The legislation aims to empower communities by providing municipalities with the authority to post official traffic control devices and signage designating drug-free zones around schools, daycare centers, homeless shelters, and treatment facilities.

By implementing stricter regulations, enhancing protective measures, and designating drug-free zones, HB 398 aims to create safer communities where children and vulnerable individuals can thrive free from the harmful effects of drug abuse.

[8:06:53 AM](#)

ISSAC SCHLOSSER, Staff, Representative Craig Johnson, Alaska State Legislature, on behalf of Representative Johnson, prime sponsor of HB 398, presented the bill's sectional analysis [included in the committee packet], which read as follows [original punctuation provided]:

Section 1: Amends AS 11.71.030(a), by adding new language that establishes that a person commits the

crime of misconduct involving controlled substances (Schedule IA, IIA) in the third degree if the crime occurs 500 feet at or within a day care center, shelters for the homeless, or a treatment and rehabilitation center.

Section 2: Amends AS 11.71.030(b) amending an affirmative defense for certain prohibited conduct occurring within private residences located within 500 feet of day care center, shelters for the homeless, or a treatment and rehabilitation center. The defense applies if the conduct did not involve distributing or possessing controlled substances for profit.

Section 3: Amends AS 11.71.040(a), by adding new language that establishes that a person commits the crime of misconduct involving controlled substances (Schedule IIIA, IVA, VA, VIA) in the fourth degree if the crime occurs 500 feet at or within a day care center, shelters for the homeless, or a treatment and rehabilitation center.

Section 4: Amends AS 11.71.040(b), mirroring the affirmative defense outlined in Section 2 for certain prohibited conduct occurring within private residences within 500 feet of a day care center, shelters for the homeless, or a treatment and rehabilitation center.

Section 5: Amends AS 28.01.010(d), Provisions Uniform Throughout State, and mandates municipalities to install official traffic control devices indicating "drug-free zones" near daycare centers, homeless shelters, and treatment and rehabilitation centers.

Section 6: Establishes the applicability of the amendments made in Sections 1-4, specifying that they apply to offenses committed on or after the effective date of the act.

CHAIR MCCORMICK sought questions from committee members.

[8:09:12 AM](#)

REPRESENTATIVE HIMSCHOOT questioned the meaning of affirmative defense.

MR. SCHLOSSER deferred the question to Ms. Schroeder.

[8:09:47 AM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division (Legal Services Section), Department of Law (DOL), Answered questions during the hearing on HB 398. She said that an affirmative defense is a type of defense that would be run by the defendant and the defendant must prove elements of the case by preponderance of the evidence.

[8:10:28 AM](#)

REPRESENTATIVE MEARS asked how often drug-free zones around schools are utilized.

MS. SCHROEDER said she doesn't have statistics relating to the utilization of drug-free zones in schools and deferred the question to the Alaska Court System.

[8:10:59 AM](#)

REPRESENTATIVE RUFFRIDGE asked what the word "possession" means in the context of the statutes being amended by HB 398.

MS. SCHROEDER answered that the word possession as used in HB 398 applies to people who are in possession of a certain drug outside of a prescription.

REPRESENTATIVE RUFFRIDGE asked if marijuana would fall outside of the bill's amended statutes because it is legal to possess in Alaska.

MS. SCHROEDER said she would walk back her marijuana statement and clarified that HB 398 only says you may not possess it near a school.

[8:12:30 AM](#)

REPRESENTATIVE RUFFRIDGE posed a legal scenario of possessing a prescription for Adderall and asked whether it would be criminal to have it next to a daycare.

MS. SCHROEDER directed the committee's attention to page 1, line 4 of HB 398 and explained how it would exempt someone from criminal prosecution if they had a prescription for said drug.

[8:13:41 AM](#)

REPRESENTATIVE RUFFRIDGE asked for clarification that the difference between Adderall and marijuana is that marijuana is not prescribed.

MS. SCHROEDER confirmed that is correct.

[8:13:54 AM](#)

REPRESENTATIVE MCCABE asked whether DOL could absorb the additional cases that HB 398 would create.

MS. SCHROEDER said DOL does not issue fiscal notes based on whether it likes the bill or not and said it issues fiscal notes based on legal analysis. She said HB 398 would amend current law that says it is already illegal to possess certain drugs on school grounds and would only add new drugs to the list, and she reiterated her belief that the DOL could absorb the new cases and cost created by HB 398.

CHAIR MCCORMICK cautioned Representative McCabe against impugning the DOL's motives regarding the fiscal note for HB 398.

[8:16:13 AM](#)

REPRESENTATIVE MCCABE asked how DOL estimates the number of additional cases or the amount of litigation created by new legislation in its fiscal notes.

MS. SCHROEDER explained that these types of cases are not a large portion of the department's drug cases, so increasing the number of drugs on the list should not increase the DOL's caseload.

[8:17:37 AM](#)

NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, answered questions during the hearing on HB 398. She confirmed that only one to three cases were related to misconduct with controlled substances and said that any new cases could be absorbed by the DOL.

[8:19:14 AM](#)

REPRESENTATIVE MCCABE asked why there is a difference in how the fiscal notes are estimated between the DOL and the Alaska Court System.

MS. MEADE said the Alaska Court System estimated a zero fiscal note because it wouldn't be able to hire someone to handle an additional two or three cases per year.

CHAIR MCCORMICK shared his understanding that the proposed legislation is optional for communities around the state.

MS. MEADE said she is not certain of what Chair McCormick means by "optional to the communities" and deferred the question to the bill sponsor.

[8:20:45 AM](#)

REPRESENTATIVE C. JOHNSON deferred the question to Isaac Schlosser.

MR. SCHLOSSER said that HB 398 is an unfunded mandate so municipalities would be responsible for posting signage indicating a drug-free zone.

CHAIR MCCORMICK recalled that the word optional was used during the committee hearing.

REPRESENTATIVE C. JOHNSON said it was himself who most likely misspoke rather than Representative McCormick misunderstanding anything.

[8:21:59 AM](#)

REPRESENTATIVE HIMSCHOOT asked whether it would be unreasonable to combine multiple signs into one that would read "drug-free zone" to reduce some of the cost associated with putting up signage.

REPRESENTATIVE C. JOHNSON shared his understanding that the signs would not need to designate certain areas and said that he would prefer having a generic sign.

REPRESENTATIVE HIMSCHOOT asked whether the state could absorb the cost of creating the signs to avoid burdening the municipalities with additional cost.

REPRESENTATIVE C. JOHNSON replied that signs are created through the Department of Transportation & Public Facilities (DOT&PF), and he opined that it would be more difficult for the state to create signs.

[8:25:19 AM](#)

REPRESENTATIVE MEARS asked whether there is a size limit on daycare centers and asked whether the proposed bill's classifications would include at-home day care facilities.

REPRESENTATIVE C. JOHNSON shared his belief that if the daycare is licensed, the proposed legislation would apply to it.

REPRESENTATIVE MEARS said that there are quite a few licensed day care facilities in neighborhoods and residential areas.

REPRESENTATIVE C. JOHNSON concurred, per his interpretation of HB 398 and added his belief that the drug-free zone would be a good thing for parents and children and an opportunity to enhance services provided by day care facilities.

[8:27:27 AM](#)

REPRESENTATIVE BAKER asked whether "within 500 feet" as written in HB 398 is a radius or 500 sidewalk feet from the said location.

REPRESENTATIVE C. JOHNSON shared his understanding that the limit of 500 feet would be from the property line and enforcement would be at the officer's discretion.

REPRESENTATIVE BAKER said he was asking because Kotzebue has school zones and marijuana dispensaries right next to each other, and HB 398 would place restrictions on businesses already in place.

REPRESENTATIVE C. JOHNSON clarified that the bill deals with illegal substances, not legal businesses and legal substances.

[8:31:17 AM](#)

REPRESENTATIVE RUFFRIDGE highlighted page 1, line 4 and page 2, line 22 and asked whether there could be issues for license renewal if a marijuana store is within 500 feet of a restricted location as defined in HB 398.

MS. MEADE replied that Alaska marijuana statutes and how they interacts with the criminal code is more complicated than she may have suggested in her previous comments. She expounded on her understanding of how current statutes and criminal code would interact with the proposed legislation and explained how it would impact a city's management of business placement.

[8:34:14 AM](#)

REPRESENTATIVE RUFFRIDGE asked if the proposed statute were to be adopted, whether it would force dispensaries to relocate if they were within the 500-foot limit as outlined in HB 398.

MS. SCHROEDER said she didn't believe that would happen.

[8:35:30 AM](#)

REPRESENTATIVE C. JOHNSON thanked the committee for hearing HB 398 and emphasized his desire to protect those who cannot protect themselves such as children and those in recovery. He said exposure is the first step towards addiction and indicated that expanding [the drug-free zones] would be [favorable] and allow law enforcement to bring justice to drug dealers.

CHAIR MCCORMICK announced that HB 398 would be held over.

[8:38:06 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:38 a.m.