

## Talking Points—SB 91 as it impacts DHSS

### SENATE BILL 91 – Omnibus Criminal Justice Reform

11-14-2016

SB 91, championed by Senator John Coghill, is the result of the year-long work of the Alaska Criminal Justice (ACJ) Commission (created through SB 64). The Commission is a diverse and multi-department/discipline group of individuals committed to improving criminal justice in Alaska.

In partnership with the Pew Charitable Trust, the ACJ Commission undertook the enormous task of redefining and redesigning Alaska's criminal justice system—SB 91 is the first step toward implementing the first recommendations of the Commission, with broad and significant input, feedback and recommendations by stakeholders and the public across Alaska.

Throughout SB 91, substance abuse and mental health screening, diagnosis, treatment and aftercare are highlighted as key to reducing Alaska's recidivism rates, improving the lives of families impacted by incarceration of a family member, and creating healthier, more productive members of our communities—ultimately not only reducing recidivism, but reducing first time offenders.

In a close review of the Commission's recommendations, the contents of SB 91 and the months of discussion, dialogue and debate about criminal justice reform in Alaska, one key message was made crystal clear: **behavioral health issues are at the forefront of the criminal justice system; a system mired in alcohol and drug abuse, dependency and addiction, as well as overwhelming episodes of undiagnosed and untreated mental illness.**

Medicaid/health & behavioral health care reform and criminal justice reform are closely integrated and will work together to address the following areas of change; working to leverage pieces of each reform process to enhance and strengthen health and social service outcomes for all Alaskan's impacted by criminal justice involvement; and to establish clear processes, priorities and systems of care to create long-term health and wellness for individuals returning to their communities following a period of incarceration. In addition, we will explore ways to increase primary care and behavioral health care within our correctional institutions, through better partnerships with community-based non-profit, tribal and faith-based organizations that can provide services, through in-reach programming, to inmates' still incarcerated and nearing release.

#### Key areas where SB 91 will impact the work of DHSS include:

- Amends criminal statute to expand the crime of Misconduct Involving a Controlled Substance attempt to differentiate between low and high-level drug dealers. These changes apply to juveniles, referred to the Division of Juvenile Justice (DJJ);

- Amends criminal statute to downgrade certain criminal offenses into violations. Juveniles cited for these offenses would not be referred to DJJ;
- Directs the court system to accept an affirmative defense to the crime of prostitution, if the person can prove they were the victim of sex trafficking at the time of the prostitution charge;
- Creates opportunities for compliance with treatment plans to be an incentive to reduced sentences, including imprisonment, fine or license revocation;
- Creates the recidivism reduction fund in the general fund, supported by marijuana tax revenue, to fund recidivism programs in the departments of Corrections, Health and Social Services, and Public Safety;
- SB 91 removes the lifetime ban on food stamps for individuals with felony drug convictions, if conditions related to substance use treatment, recovery and rehabilitation are demonstrated. Prior to SB91, Alaska was one of seven states that continued to maintain this ban, a ban that greatly impedes the successfully reentry back into community life for former inmates;
- Alaska's Alcohol Safety Action Program (ASAP) will develop more focused regulations regarding program court referrals specifically related to alcohol/drug violations related to operating a motorized vehicle, refusal to submit to chemical testing and violating terms of probation related to substance use. This narrowing of who is referred to ASAP, will allow ASAP Probation Officers to provide better screening for substance use dependency and criminogenic tendencies, targeted referral for needed services, and more rigorous monitoring of individuals engaged with ASAP;
- Strengthens the regulations and process for programs that have, as a primary focus, rehabilitation and reduction of recidivism, especially as it relates to alcohol and drug addiction; including programs that include daily or twice daily substance testing such as the 24/7 programs;
- DHSS is required to increase access to evidence-base rehabilitation programs including drug and alcohol treatment, mental health and cognitive behavioral programs;
- Supports offenders' transition and reentry from correctional facilities to the community, including transitional housing services, employment services, vocational training, counseling and medical care;
- Increased focus on the need to engage prisoners before release, to ensure those who are eligible, are enrolled in Medicaid and other available public assistance programs upon release;
- Encourages increased partnerships between DOC, DHSS and community service agencies to provide "in-reach" programming, consultation and support.

## Updates on implementation activities to date:

- One of the DHSS 16 Medicaid Reform (SB 74) initiatives is SB 91 Integration with DHSS; L. Diane Casto, Behavioral Health Policy Advisor is the lead staff person for this initiative. A Workgroup of approximately 25 individuals, representing DHSS Divisions of Behavioral Health, Health Care Services, Public Assistance, Juvenile Justice, Senior & Disability Services, the AK Commission on Aging, Department of Corrections, AK Criminal Justice Commission, Alaska Court System, Therapeutic Courts, the Advisory Board on Alcoholism & Drug Abuse, the Alaska Mental Health Board and the Alaska Mental Health Trust Authority. The first meeting of the workgroup was held August 29, with monthly meetings to follow for the next 6-12 months depending on the work and progress of the identified tasks. The next meeting is scheduled for November 28;
- Health Care Services, Public Assistance and the Commissioner's Office are working in partnership with the Dept. of Corrections on establishing protocols, practices and guidelines for expanding the number of justice involved individuals who enroll in and become eligible for Medicaid. This task is divided into two specific areas:
  - 1) Medicaid eligibility for individuals incarcerated, who are transported for healthcare services to a local hospital for more than 24 hours;
  - 2) Increasing the number of inmates who are enrolled in Medicaid prior to release. HCS has established a process to enroll inmates needing hospitalization that is working well and has determined that the **FY16 Medicaid expenditure amount, for DOC hospitalizations, was \$1,667,010. This represents a clear savings for DOC healthcare expenditure.** DHSS and DOC are continuing to develop protocols and a statewide process for enrolling all eligible DOC inmates in Medicaid up to 90-days prior to release.
- In partnership with the Alaska Primary Care Association, DOC Education Coordinators and members of Alaska's four (4) community reentry coalitions attended the Annual 'Assisters' Training (September 14-16), to develop a cadre of Medicaid enrollment counselors and navigators. APCA developed a specific day of training for those individuals planning to work exclusively with enrolling justice involved and returning citizens. This partnership will greatly increase the ability to enroll justice involved individuals, to provide health literacy training as part of enrollment, and to provide a mechanism for tracking the number of new enrollees who have been involved with the criminal justice system;
- **Public Assistance has revised its protocol and processes to implement the removal of the lifetime ban on food stamps for individuals with felony drug convictions.** Prior to the passage of SB 91 Alaska was one of seven states that continued to maintain this ban—now those individuals with felony drug convictions who have met the time and treatment requirements are eligible to receive food stamps when needed;
- ASAP has begun the process for updating and revising the regulations regarding program court referrals, narrowing who is referred to ASAP, allowing for better screening, referral and monitoring of clients engaged in ASAP services. All ASAP staff and grantees were trained, in early October, to use the LSI-R Screening tool, that will now be used with all clients to better identify their needs for referral and monitoring;

- A competitive RFP for a data system to support alcohol & drug testing services was released in August; a PEC and system demonstrations were held in late August/early September with an award was made. The notice of intent to award was issued and a protest was received. The protest was denied, and then an appeal was received. The appeal has gone to the Office of Administrative Hearings with the first hearing scheduled in January. However, the state made the decision to move forward with an award to BI, a subsidiary of GEO Group. The intent is that the system will begin operations December 2016;
- A second competitive RFP was released soliciting testing providers of alcohol & drug testing services (related to the data system solicitation above). Proposals were originally due August 26, but the deadline was extended until November 28, to allow for the database RFP to come to a conclusion. The awards for testing sites will be made in December.
- The Division of Behavioral Health received **\$1.0 million in SB 91 funding, to support, enhance and expand the states community reentry centers and community reentry coalitions.** Currently Alaska has one Reentry Center located in Anchorage and four (4) funded community reentry coalitions. Funding will be allocated in the following way: \$250,000 has been added to a current DBH contract with Partners Reentry Center in Anchorage; the additional \$750,000 will be awarded through a competitive RFP for community reentry coalitions. The RFP is divided into 3-categories: currently active reentry coalitions in Anchorage, Fairbanks, Mat-Su and Juneau, one developing coalition serving the Kenai Peninsula, four (4) additional communities targeted for taking steps to develop reentry coalitions in Bethel, Nome and Ketchikan (each community where a DOC correctional institution is located) and Dillingham where reentry conversations are happening. Staff worked in partnership with the Trust and DOC to develop a Request for Proposals to enhance funding for existing coalitions, as well as to fund five additional developing coalition efforts. **The RFP was posted in October and proposals are due November 15.**
- Behavioral health redesign and reform (another SB 74 initiative) will work to improve access, quality and cost of substance use disorder and mental health conditions, with a special emphasis on making behavioral health services more available and targeted to justice involved individuals living and working in our communities. The Division of Behavioral Health is working, with stakeholders and partners, to create a Medicaid 115 behavioral health waiver that may provide improved services for those individuals within our correctional institutions, as well as those released and living in communities. Quality behavioral health services can help reduce recidivism and prevent first-time offenders going into a correctional institution. **The 115 BH Medicaid Waiver concept paper is expected to be submitted in December 2016, with the full application being submitted to CMS in July 2017.**