

**CITY OF SEWARD, ALASKA
RESOLUTION 2021-024**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,
ALASKA, OPPOSING THAT PORTION OF THE STATE OF ALASKA'S
PROPOSED FY 2022 BUDGET WHICH WOULD CHARGE HOME RULE
MUNICIPALITIES FOR THE PROSECUTION OF STATE
MISDEMEANOR CRIMES WITHIN EACH JURISDICTION**

WHEREAS, the Governor's proposed budget for FY 2022 contains a proposal to charge home rule municipalities for the prosecution of state misdemeanor crimes within each jurisdiction, or else force municipalities to prosecute their own misdemeanor crimes; and

WHEREAS, legally, the state is obligated to prosecute "all cases involving violation of state law"; and

WHEREAS, the state does not prosecute municipal ordinances, including municipal misdemeanors; and

WHEREAS, the misdemeanor prosecutions that the proposal seeks to charge municipalities for are violations of state laws exclusively; and

WHEREAS, forcing municipalities to pay for state obligations explicitly provided for in statute is legally questionable and impedes a local governments ability for self-governance, contrary to Article X Sec. 1 of our State Constitution; and

WHEREAS, the City of Seward does not retain its own judge, prosecutor, and defender; and

WHEREAS, adding these positions would be financially detriment to the City. Conversely, the other option is to pay the state to prosecute these misdemeanor crimes; and

WHEREAS, currently, the Kenai District Attorney's Office, which covers Seward, is dismissing misdemeanor crimes at an alarming rate and are being told to do so by their superiors in the Attorney General's Office in the interests of saving time and money. This inexcusable behavior does not represent the rights of the citizens of the state to be protected by our system of justice; and

WHEREAS, the City of Seward has not been offered or given any assurances their reported misdemeanor crimes will be given any attention by the district attorney's if the City agrees to pay this toll; and

WHEREAS, we urge the proper funding of the Governor's budget to allow for all facets of public safety to be able to work as needed and represent the rights and freedoms of the people

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of Seward and Alaska.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA that:

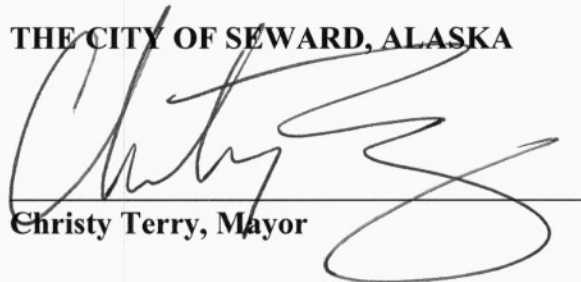
Section 1. The Seward City Council hereby opposes that portion of the State of Alaska's proposed FY2022 budget which would charge home rule municipalities for the prosecution of state misdemeanor crimes within each jurisdiction.

Section 2. The city manager is directed to furnish a copy of this resolution to Governor Dunleavy's office.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND APPROVED by the City Council of the City of Seward, Alaska, this 22nd day of February, 2021.

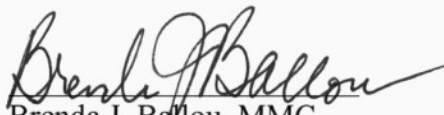
THE CITY OF SEWARD, ALASKA



Christy Terry, Mayor

AYES: Osenga, McClure, Casagrande, DeMoss, Seese, Baclan, Terry
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Brenda J. Ballou, MMC
City Clerk

(City Seal)



Agenda Statement



Meeting Date: February 22, 2021

To: City Council

Through: Norm Regis, Acting City Manager

From: Alan Nickell, Police Chief

Agenda Item: Opposing the State of Alaska changing charging protocols for the prosecution of state misdemeanor crimes

BACKGROUND & JUSTIFICATION:

The Governor's proposed budget for FY 2022 contains a proposal to charge home rule municipalities for the prosecution of state misdemeanor crimes within each jurisdiction or force them to prosecute their own misdemeanor crimes.

Legally, the state is obligated to prosecute "all cases involving violation of state law." The state does not prosecute municipal ordinances, including municipal misdemeanors. The misdemeanor prosecutions that the proposal seeks to charge municipalities for are violations of state laws exclusively. Forcing municipalities to pay for state obligations explicitly provided for in statute is legally questionable and impedes a local governments ability for self-governance, contrary to Article X Sec. 1 of our State Constitution.

The City of Seward does not retain its own judge, prosecutor, and defender. Adding these positions would be a further financial detriment to the city. Conversely, the other option is to pay the state to prosecute these misdemeanor crimes. Currently, the Kenai District Attorney Office, which covers Seward, are dismissing misdemeanor crimes at an alarming rate and are being told to do so by their superiors in the Attorney General's Office in the interests of saving time and money. This inexcusable behavior does not represent the rights of the citizens of the state to be protected by our system of justice. The City of Seward has not been offered or given any assurances their reported misdemeanor crimes will be given any attention by the district attorney's if we agree to pay this toll.

The City of Seward currently subsidizes the State of Alaska for the Seward Community Jail facility. Since 2015, the State of Alaska has decreased contract funding to the Seward Community Jail and no opportunity for contract negotiation has been offered. The jail contract has never been adjusted for inflation. In 2018, the City of Seward paid \$228,366 of their own money to cover the shortfall in the jail contract. In 2019, this amount rose to \$238,036. As of October of 2020, the City had spent over \$220,000. The final amount the City has subsidized for 2020 will be available in the near future.

When the cost of the community jail is added to this proposed change to misdemeanor protocols, the expected costs to the City of Seward could increase to \$500,000 or more annually. This is too much burden on the people of Seward and we strongly oppose this treatment of our residents. These measures violate the Constitution of the State of Alaska and should be immediately stopped. We urge the proper funding of the Governor's budget to allow for all facets of public safety to be able to work as needed and represent the rights and freedoms of the people of Seward and Alaska.


INTENT:

To oppose The State of Alaska for changing the charging protocols for the prosecution of state misdemeanor crimes.

<u>CONSISTENCY CHECKLIST:</u>		Yes	No	N/A
1.	Comprehensive Plan:			
2.	Strategic Plan:			
3.	Other:			

FISCAL NOTE:

There is no fiscal impact associated with this opposition resolution, though a significant impact on the City's budget will need to be addressed if the State passes this obligation onto municipalities.

Approved by Finance Department: 

ATTORNEY REVIEW: Yes _____ No _____ Not Applicable _____

RECOMMENDATION:

City Council approve Resolution 2021-_____, opposing the change that would charge home rule municipalities for the prosecution of state misdemeanor crimes.