

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

March 23, 2005

1:39 p.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Gary Wilken, Vice Chair

MEMBERS ABSENT

Senator Lyda Green
Senator Kim Elton
Senator Donny Olson

COMMITTEE CALENDAR

SENATE BILL NO. 74

"An Act making findings relating to marijuana use and possession; relating to marijuana and misconduct involving a controlled substance; and providing an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 74

SHORT TITLE: CRIMES INVOLVING MARIJUANA/OTHER DRUGS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(S)	READ THE FIRST TIME - REFERRALS
01/21/05	(S)	HES, JUD, FIN
03/21/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/21/05	(S)	Heard & Held
03/21/05	(S)	MINUTE(HES)
03/23/05	(S)	HES AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

DEAN GUANELI
Department of Law
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 74.

DR. DAVID MURRAY, Special Assistant
White House Office of National Drug Control Policy

1600 Pennsylvania Avenue NW.
Washington DC, 20500
POSITION STATEMENT: Supports SB 74.

DR. FIELDER
Licensed Clinical Psychologist
No address provided
POSITION STATEMENT: Supports SB 74.

BILL HOGAN, Director
Division of Behavior Health
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Supports SB 74.

CHRISTY WILLARD, Deputy Director
Division of Behavioral Health
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Supports SB 74.

BARBARA BRINK, Director
Alaska Public Defender Agency
900 W. 5th Ave.
Anchorage, Alaska 99501-2090
POSITION STATEMENT: Opposes SB 74.

JIM GARHART
Wasilla, Alaska 99629
POSITION STATEMENT: Opposes SB 74.

JOHN FAIRLEIGH
Anchorage, Alaska 99501
POSITION STATEMENT: Opposes SB 74.

LINDA RONAN
Anchorage, Alaska 99501
POSITION STATEMENT: Opposes SB 74.

MAKO HAGGERTY
Homer, Alaska 99603
POSITION STATEMENT: Opposes SB 74.

DAVE SWARTHOUT
Homer, Alaska 99603

POSITION STATEMENT: Opposes SB 74.

DR. BOB JOHNSON
Kodiak, Alaska 99615

POSITION STATEMENT: Opposes SB 74.

FRANK TURNER
Fairbanks, Alaska 99701

POSITION STATEMENT: Opposes SB 74.

DIRK NELSON
Fairbanks, Alaska

POSITION STATEMENT: Opposes SB 74.

ACTION NARRATIVE

CHAIR FRED DYSON called the Senate Health, Education and Social Services Standing Committee meeting to order at [1:39:12 PM](#). Present were Senator Gary Wilken and Chair Fred Dyson.

SB 74-CRIMES INVOLVING MARIJUANA/OTHER DRUGS

[1:39:12 PM](#)

CHAIR DYSON announced SB 74 to be up for consideration.

DEAN GUANELI, Chief Assistant Attorney General, Department of Law, introduced Dr. Murray and Dr. Fielder.

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DR. DAVID MURRAY, White House Office of National Drug Control Policy (ONDCP), stated he earned a PhD from the University of Chicago and has served on the White House ONDCP for three years as a special assistant to the director of that office. His area of expertise is principally scientific, technical, and medical research in drug related studies that have an analytic focus. He drew attention to scientific literature that has increased awareness of the considerable health risks associated with cannabis consumption. He said the literature, which includes some of the highest quality medical literature in the world, shows how pervasive, consequential, and striking the health consequences of cannabis consumption really is, particularly for young people.

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The literature indicates a general falling of the average age of marijuana initiation as well as a growing number of cases where children initiate use as early as 9 to 12 years of age. Children are particularly susceptible to the effects of marijuana because many of the cognitive elements of their brains are still developing.

The literature indicates that the strength of marijuana, as measured by the content of its psychoactive ingredient, tetrahydrocannabinol (THC), has increased considerably in recent years. The elevated THC content of modern marijuana makes it, qualitatively, a different sort of drug than that which was used in the 1960s and 1970s. Recent literature shows evidence of strong genetic susceptibilities to marijuana-induced psychotic episodes among all segments of the population.

The health risks strongly associated with marijuana consumption are memory and cognitive function impairment, motivational change, health risks through the inhalation of the smoke itself, and a serious risk of increasing one's chances of developing schizophrenia, hallucinations, and other psychotic episodes, particularly for youth that are inclined to psychotic episodes.

Marijuana is a toxic substance that produces withdrawal and addiction. More than 60 percent of the need for the treatment of drug dependency in the United States is attributed to marijuana. There are currently more people under the age of 18 in treatment of marijuana abuse than for alcohol abuse.

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There are several factors that make Alaska particularly susceptible to widespread marijuana use these include: a vulnerable Native population, a general population that is skewed towards a young, risk-taking demographic, and a rural population with less access to rehabilitation facilities.

CHAIR DYSON asked the amount of money spent on marijuana.

DR. MURRAY responded the US population spends about 65 billion on illegal drugs annually and it is estimated that 10-20% of that is spent on marijuana. He noted many social costs associated with widespread marijuana use.

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SENATOR WILKEN asked Dr. Murray to restate his position and qualifications.

DR. MURRAY said:

I currently serve as a special assistant to the director of the ONDCP. My specialty is reviewing literature, research findings and scientific studies with regard to drug use and abuse, as well as other issues that come before us in terms of the findings in the supply and demand issues of illegal drug use. My background is a PhD from the University of Chicago. I was a university professor for a number of years and I have been in Washington for over a decade looking at the intersection of science and policy.

CHAIR DYSON thanked Dr. Murray for his efforts and remarked that he had taken notice of his comments on the particular challenges facing Alaska.

DR. MURRAY replied he had looked at comparative data, which shows that Alaska has an unfortunate standing as an area where there is a high prevalence of the use of many illicit drugs.

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DR. FIELDER said:

I am a California-licensed clinical psychologist and I have been diagnosing and treating individuals with drug addictions in general, and marijuana addictions in particular, inpatient and outpatient based, for about 20 years. For over two years, I was a chief psychologist at the chemical dependency inpatient treatment facility at St. Mary's Hospital and Medical Center in San Francisco. During my ten years on the staff of the medical center, I also held other positions such as the director of training and psychology and outpatient director at the department of psychiatry.

DR. FIELDER mentioned the medical center is only two blocks away from the infamous Height-Ashbury district in San Francisco, the place where marijuana gained much of its popularity and mystique back in the 1960s and 1970s. He urged the committee not to base their decisions on the marijuana mythology that has evolved since the flower era. He said that he has encountered an

increasing body of evidence that shows that marijuana is far from a benign drug.

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DR. FIELDER said marijuana use throughout the United States is reaching epidemic proportions. Arguments saying that marijuana is a harmless drug are intellectually dishonest at best and there are two well-established, easily verifiable facts, which show this. The first is that a large and growing number of people are in treatment programs for marijuana use. The second is that the Marijuana Anonymous organization is rapidly proliferating throughout The United States and other countries. Between 1992 and 2002, the admission rate to treatment programs for marijuana abuse and addiction almost tripled in the United States. This month the Office of National Drug Control Policy claimed the increase was due to the increased potency of marijuana.

Marijuana proponents have examined these numbers and claim that the increase in the participation in treatment programs could be caused by any number of reasons including more referrals from attorneys and the criminal justice system, increased funding for various programs and more efficient data collection and processing techniques.

Their interpretation misses the forest for the trees, because the numbers reveal there are a significant number of people in this country that have a big enough problem with marijuana to warrant treatment. It is well known that many people don't seek treatment and thus the people in treatment could just be a small representation of the overall number of people affected.

Statistics reveal the overall treatment admissions in Alaska for marijuana as a primary substance of abuse have risen roughly 600% since 1976. Approximately half of the admissions are youth between the ages of 12 and 17. Admission records also reveal the reality that more teens are in treatment for marijuana dependence than for alcohol and all other drugs combined.

The other telling fact is that there are 29 states and five countries in addition to the United States that have Marijuana Anonymous organizations. In Los Angeles alone there are 27 chapters serving individuals with marijuana abuse and addiction problems. Marijuana Anonymous is modeled after Alcoholics Anonymous. He read the following statement from them:

Who are the marijuana addicts? We who are marijuana addicts know the answer to this question. Marijuana controls our lives! We lose interest in all else; our dreams go up in smoke. Ours is a progressive illness often leading us to addictions to other drugs, including alcohol. Our lives, our thinking, and our desires center around marijuana - scoring it, dealing it, and finding ways to stay high.

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DR. FIELDER said anyone who questions whether marijuana is a dangerous substance need only to talk to someone who has ever had a serious problem with the drug. The Institute of Medicine of the National Academy of Science has reported the following:

Thirty-two percent of people who try tobacco become dependent, as do 23 percent who try heroin, 17 percent who try cocaine, 15 percent who try alcohol, and 9 percent who try marijuana.

If these numbers are correct, what we are seeing in treatment programs and in the justice system is just the tip of the iceberg. According to the National Survey on Drug Use and Health, 95 million American's age 12 and older have tried marijuana at least once. If only 5 percent of them became dependent, it means that there are almost 5 million Americans who are dependant on marijuana.

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Many of these individuals are children who are exposed to marijuana when their parents use the drug. Often times such children are too immature to discern the risk of smoking marijuana even if their parents attempt an honest education. He made the following summary statements:

The picture that I get from the emerging statistics on the impact of marijuana on individuals, families, communities and crimes rates, frankly, looks pretty scary. Even if there are errors in the collecting and reporting of the data, which there always are, even a conservative interpretation of the data suggests that we have an insidious epidemic at hand. Even though the cause and effect relationship in marijuana in school, work, family, social and crime problems is not fully understood, the drug is woven in the fabric of

our society and cannot help but contribute, in a negative way, to the growing numbers of problems that we see. I think that it is disingenuous to say, and some people do, that there is no evidence that marijuana does not cause crime or violence or school or work problems. Cause and effect is not simple and direct with regard to this issue.

It is being reported that marijuana with a higher level of THC potency is becoming more available to consumers in the marketplace. I have heard that the sample average in Alaska is about 14 percent with individual samples testing as high as 17 percent THC. What that means, in terms of all of the issues that pertain to marijuana, is far from clear at this point in time, but it can't be a good thing because there is no way for users to determine potency without actually trying the product. First-time users can be blindsided just as easily as chronic users and, if alcohol can be used as an analogy, one can at least be aware of the relative amounts of alcohol in products because of labeling requirements. No one would mistake the alcohol in an aperitif for 151-proof rum. Like alcohol however, marijuana is still a dangerous drug regardless of its potency. We are less open to the fact that certain people are vulnerable to the effects that drugs like marijuana, alcohol, cocaine, et cetera provide and become dependent, chronic users.

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Marijuana is, in my opinion, a human problem whose immediate and personal benefits are soon lost when the person becomes addicted. I cannot tell you how many times I have heard the story, from patients, that the initial pleasure of marijuana soon gave way to a nightmare of craving, dependence, and spiraling out-of-control problems. Like the drug absinthe, before it was finally banned in France during the early 1900's, marijuana is having a growing impact on the psychology and health of the United States. In my opinion the issue is not whether marijuana is not a dangerous and addictive drug, but what can be done about it. I think that it is a problem of Alaska and the rest of the United States in general.

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CHAIR DYSON asked Dr. Fielder if he had seen reports that are contrary to the information that he had cited.

DR. FIELDER responded the only such information that he has seen have been anecdotal reports.

CHAIR DYSON asked whether it was true that the social cost of marijuana is greater than that of alcohol.

DR. FIELDER said that was Doctor Murray's claim.

CHAIR DYSON asked the number of states that have outlawed marijuana.

DR. FIELDER did not know.

CHAIR DYSON asked Dr. Fielder about the symptoms he typically finds among patients.

DR. FIELDER responded they typically exhibit a very wide range of symptoms including anxiety, paranoia and hallucinations. He said in outpatient psychiatry and emergency rooms at St. Mary's he has seen full-blown psychosis, high anxiety and serious personal neglect.

CHAIR DYSON asked Dr. Fielder to comment on the apparent discrepancy between the correlation of marijuana use and violence and the common perception that marijuana has a pacifying effect on its users. He asked if any researchers are positing a cause and effect relationship between marijuana use and violent behavior.

DR. FIELDER responded there is defiantly some kind of relationship between marijuana use and violent behavior.

DR. MURRAY said there are two pieces of literature that strongly suggest an association between marijuana and violence. One is a correlation found in school and household-based surveys of young people which shows that frequent marijuana users are four to six times more likely than non-users to be involved in property crime and violence.

The second account is a data set called the Arrestee Drug Abuse Monitoring System (ADAM), which represents data derived from urine samples from people who have been arrested, largely in big cities, from any crime. This data shows an extraordinary

percentage of these people have illegal substances in their blood at the time of arrest and the leading drug is marijuana. Depending of the city, 40-50 percent of arrested males were marijuana positive at the time of their arrest.

While it is difficult to establish the cause and effect relationship between marijuana use and violence, there is clearly an issue of marijuana's effects on judgment, there is an issue of dependency as a contributing factor to criminal behavior and there is an issue of the poly-drug effects that occur when marijuana is combined with other drugs, particularly alcohol.

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CHAIR DYSON asked whether Americans are spending more money on marijuana than alcohol.

DR. MURRAY did not know. He said there is a greater need for treatment among people under the age of 18 for marijuana abuse than for alcohol abuse.

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BILL HOGAN, Director of the Division of Behavior Health (DBH), said that prior to undertaking his current position he was the executive director of Life Quest, the community mental health facility in Wasilla. He has 30 years of experience as a clinician, supervisor, administrator, and consultant. The DBH agrees with the assertion of Dr. Murray and Dr. Fielder that children who use marijuana before the age of 14 have an increased likelihood to be drug dependant.

The division recognizes that children who use marijuana before 14 have a smaller chance of graduating from high-school, an increased likelihood of being involved in delinquent or deviant behavior and an increased likelihood of having multiple sexual partners which, in turn, puts them at a higher risk of contracting HIV.

The state spends about \$15 million a year on substance abuse treatment. One third of the individuals treated in the substance abuse system are treated for a primary or secondary diagnosis of cannabis abuse or cannabis dependence. The division recognizes that cannabis use has a direct impact on mental health problems such as depression, anxiety, personality disorders, suicidal ideation and in some cases, suicidal behavior.

CHAIR DYSON asked Mr. Hogan to define suicidal ideation.

MR. HOGAN responded suicidal ideation is thinking about suicide but not actually acting on the thoughts.

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CHRISTY WILLARD, Deputy Director of the Division of Behavioral Health, supported SB 74. Before she assumed her current position she was the director of drug and alcohol services for the Bristol Bay Area Health Corporation for 17 years. THC content of marijuana in the 1960s and 1970s was, on the national average, less than 1 percent. Today the national average is 6.4 percent, and the Alaskan average is 14 percent. The increasing potency of THC may explain the increasing rate of conversion of casual users to dependant users.

The Journal of the American Medical Association asserted that, although the rate of marijuana usage has changed little in the past decade, the rate of abuse and dependence has increased by about 5.4 percent. According to the Diagnostic Statistical Manuel of Mental Disorders (DSM-MD) used by physicians to diagnose drug dependence and abuse, one is cannabis dependant if they satisfy three or more of the following criteria; tolerance, withdrawal symptoms, the expenditure of significant amounts of time seeking and using the drug, marijuana related problems at work, school, family life or recreation or persistent use despite an awareness of physical or psychological effects. According to the DSM-MD, one abuses marijuana if they satisfy one of the following criteria; diminished school or work performance, persistence in performing dangerous activities such as driving while under the influence of marijuana, experiencing legal problems, or family conflict.

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The common tendency of people to misunderstand and trivialize the effects of marijuana tends to affect attitudes toward the relative risk of its use. A national survey on drug use and health conducted in 2004 shows that one's perceived risk of marijuana use influences one's willingness to try the drug. Statistically, Alaskans are in the top percent in the nation for marijuana use and, not surprisingly, we generally report that we perceive a low risk associated with marijuana use.

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Children often adopt their parent's attitudes towards various risky behaviors. According to a 1998 State of Adolescent Health Report on Alaska, adolescents whose parents used marijuana were 3.5 times more to use marijuana than children whose parents did not use it frequently. According to the report, only 5.4 percent of children who perceived their parents as strongly disapproving of marijuana used the drug themselves while 28.7 percent of children who perceived their parents as neither disagreeing nor approving of marijuana used it themselves.

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Parental use also increases a child's access to the drug. According to a national survey, 53 percent of child respondents whose parents use the drug claimed that marijuana is easy to obtain, and 48 percent of those respondents got their marijuana from home. Thirteen percent of them got it from a family member or relative.

A 2003 Alaska Youth Risk Behavioral Survey showed that one in eight children reported using marijuana before the age of thirteen. A more recent state survey of the Northwest Arctic Borough showed that 10 percent of the middle school participants reported using marijuana before the age of eleven. Alaskan youth are at a higher risk of using marijuana than those of the national population and Alaskan Native youth are at a greater risk than non-native youth. About 70 percent of Alaska Native youth that have responded to various surveys have reported using marijuana as opposed to about 41 percent of non-Native youth.

In 2001, approximately half of the admissions to marijuana treatment programs in the state were for youth between the age of 12 and 17 and over a third were Alaskan Natives. Compared to the national average, Alaska Natives are three times more likely to use marijuana.

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Between 1992 and 2002 marijuana surpassed alcohol as the number one drug causing young people to seek admission to treatment programs. In 1992, 56 percent of children admitted to treatment were admitted for alcohol while 23 percent were admitted for marijuana. Today, 20 percent were admitted for alcohol and 64 percent were admitted for marijuana.

MS. WILLARD said about 69.2 percent of the adult males arrested for domestic violence in Anchorage in 2002 tested positive for marijuana. While the claim cannot be made that marijuana has a causal link to violence, this statistic seems to conflict with the commonly held notion that marijuana pacifies its users. In her experience as a treatment provider, marijuana or alcohol does not pacify its users.

Marijuana reduces one's driving ability by decreasing one's reaction time, distorting time and distance perceptions, causing sleepiness, and impairing one's motor skills and ability to concentrate. She has witnessed several instances in which alcoholics in the early stages of recovery turn to marijuana as a safe high and then relapse into alcohol use while under the influence of marijuana.

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CHAIR DYSON asked Ms. Willard if she has seen many cases in which marijuana was used to entice young people into sexual exploitation.

MS. WILLARD has encountered many cases in which marijuana was used to entice boys and girls into sexual exploitation.

MR. HOGAN said 63 percent of the Alaska Natives in the state treatment system with a primary diagnosis of alcohol dependence also have a secondary diagnosis of marijuana dependence.

CHAIR DYSON remarked the suicide rate among young Native Alaskan males is four or five times the national average. He asked if there have been any studies directed towards the affects of marijuana with regard to the suicide rate of young Alaska Native males.

MR. HOGAN said there has been a study that has directly linked marijuana to suicide, but he has yet to hear of any such study directed towards the effects of young Alaska Native males in particular.

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MR. GUANELI said a study has shown that five percent of pregnant women in Alaska use marijuana, whereas the national average is three percent. He said his department believes that marijuana use affects a developing fetus.

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BARBARA BRINK, Director of the Alaska Public Defender Agency. said:

The testimony today has been that there is no medical evidence, literature, or research that supports opposing principles. Unfortunately I am not a doctor, I am not a psychologist, but I have tried to keep up with the literature of the harmful effects of marijuana. I have found that there is a lot of literature and research out there that makes the conclusions that are listed in the beginning of the bill somewhat problematic. For example, on page 2, paragraph 2, it says that there is evidence that marijuana has addictive properties similar to heroin. Frankly, all of the research that I could find on the addictive qualities of popular drugs puts marijuana at the very bottom and nicotine at the very top, and heroin, cocaine, alcohol, and even caffeine ahead of marijuana.

I would suggest that the literature you have been provided contains a lot of research that has been done by people who have a stake in an outcome, such as those supporting federal drug policy in the United States. There is certainly a lot of research out there that comes to a different conclusion. With regards to subparagraph 5 on page 2, it says, 'A high percentage of adults arrested in this state for domestic violence tested positive for marijuana at the time of arrest.' The pharmacological aspects of testing are so sophisticated that we can now detect marijuana in someone who hasn't used it for a month. So while there might be a correlation between use at some point in time, there certainly doesn't seem to be any causative effect regarding violence.

I have a good book that I have read, in case anyone is interested in going beyond the binder, Mitch Earleywine wrote a book called Understanding Marijuana, a New Look at the Scientific Evidence published by Oxford University Press. Dr. Earleywine received his PhD from Indiana and he is the director of clinical training of psychology at the University of Southern California. He, frankly, finds no correlation between the research literature and the

findings that there is some causality with violence. Similarly, he talked about whether there is a correlation between marijuana consumption and using it as a starting point for the use of other hard drugs. Again he found that any correlation is negligible. He also finds that long-term exposure to cannabis probably does not affect growth and intellectual function. I appreciate that you have been given a lot of scientific material, but I don't think that there is any consensus for universality in the scientific community about the very issues that you are trying to make factual findings.

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I would like to point out some of the large policy implications. You say in paragraph 14 that criminal penalties for marijuana possession and education efforts are effective at reducing marijuana use. Frankly I don't have any idea where that is coming from. Most of the data that I have looked at says that approximately one-third of all Americans have tried marijuana at one time or another and there are 200-300 million people world wide who have tried it, but less than five percent of those people use the drug on a weekly basis.

Since 1973 we have really tried winning this war on drugs by using the criminal justice system to affect people's behavior. In 1973 there were about 300,000 arrests for drug law violations. By 2003 that number had risen to 1,600,000. Of these arrests, 80 percent were just for possession and only 20 percent were for the sale and manufacture of drugs. So even though we all think that the war on drugs targets drug smugglers and kingpins and is effective in reducing the availability, such a high degree of arrests for simple possession indicates a couple of things; that we are not getting at the sources of the drugs and two, that our policy regarding locking these people up is really not having any effect. One of the witnesses testified earlier that the rate of marijuana consumption has not changed over the last ten years.

I question our desire to use the criminal justice system to try and decrease the use of marijuana among our young people. I think that the consequences of

what we are proposing in this bill are very, very serious. For example, Section 3 raises from a low level misdemeanor to a B level felony the delivery of any amount of a schedule 6A controlled substance, including marijuana, to someone who is under 21. It used to matter what the age of the person who delivered was, but under this bill it doesn't even matter. So you could have a 16-year-old passing a joint to a 20 year old and that person is guilty of committing a class B felony. A class B felony, as we know from the recent Blakely bill is now going to get somebody at least a year in jail. That seems like a very harsh and punitive reaction given the degree of the offence.

We were discussing how marijuana may have a different affect on the adolescent brain because it is not fully developed. So too do these studies show that the ongoing development of the adolescent mind leaves someone of that age to not really understand the consequences of their decisions. So we are taking that in one respect and finding it important in deciding our drug policy, but we are not taking it into account when we develop our punishment policy.

This bill makes possession of over four ounces of marijuana a C-felony, whereas before you had to possess over a pound. It makes it an A-misdemeanor for possession of anything over an ounce where previously it was half a pound. We have created all these new offences as well, for possessing marijuana as a passenger of a car, even though there is no evidence that the person has used it or had anything other than possession while he was a passenger. I don't understand what public concerns we have there. You can also be charged as a driver if you knew your passenger possesses marijuana.

I feel that we are getting very sucked into addressing how we can punish people, how we can label people, and how we can turn people into felons, but we are not really addressing whether any of that is effective in changing behavior. I would much prefer a bill that is focused on education and prevention efforts instead of trying the same old song of locking people up and letting them go and expecting it to have some sort of positive effect.

CHAIR DYSON asked Ms. Brink whether she had defended many who were brought to court of marijuana charges.

MS. BRINK responded she had, back in the early 1980s when she was doing misdemeanor cases. Her organization defended about 500 people on misdemeanor charges throughout the state last year.

SENATOR WILKEN asked whether she was the Director of the Public Defender Agency.

MS. BRINK said yes.

SENATOR WILKEN asked whether her testimony was made as the Director of The Public Defender Agency or if it was just a personal observation.

MS. BRINK said:

It is as the Director of the Public Defender Agency talking about criminalizing new behavior, talking about using this as a method to change behavior. It is important to me to know what our state is spending its money on in the criminal justice system and I think that if we have learned anything from what has happened in other states, its that when drug laws increase the penalties, increase the punishment, increase the jail sentences, what we have found in a lot of places is that the expenses exceed any benefits.

Recently the citizens of California initiated a proposition that would require first offender, drug offenders to be offered an opportunity of treatment and rehabilitation first before they wind up with a criminal record and a permanent impediment to their future employment. I am just trying to help the State of Alaska develop a good, sound drug policy based on things that we have seen happen already in other states.

[2:52:05 PM](#)

CHAIR WILKEN said:

Thank you Barbara. I guess I wish that you would have answered that the other way. For years I have wondered

why the public defender agency budget grows at hundreds, this year \$800,000 per year and why, when we have flat population in Alaska, the public defender agency outstrips in growth many agencies that we deal with here. I think that your testimony, with all due respect sheds some light on that. I would think, in your position Barbara, that you of all people should be neutral in these kinds of issues, but what you have just said to me on behalf of the Public Defender Agency is that anyone who happens to come to you with a marijuana charge is being maligned by the system.

It seems to me that you have said by your testimony you're innocent and I am going to make sure that you stay innocent just because of your personal views. I am really disappointed by your testimony and not only disappointed but surprised and curious. It's some of the most amazing testimony that I have had in my nine years. We will just keep that in mind, but I am shocked.

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JIM GARHART, Wasilla, said the courts have made their position very clear in the recent ruling in the Ravin case as well as in the decisions in McNeil, Noy and Crocker. SB 74 is an attempt to override the courts in a way that conflicts with the intent behind the division of powers within the United States Government. There are many statements in the legislative findings that cause him great concern. He quoted the following from page 1591 the MERC manual:

Even daily smokers do not develop obstructive airway disease. Pulmonary carcinoma has not been reported in persons who smoke only marijuana, possibly because less smoke is inhaled than during cigarette smoking.

He said the term auto-titration refers to the tendency of users to smoke less marijuana when they perceive that it is strong and remarked that given this tendency, the increased potency of modern marijuana may actually have health benefits since it involves inhaling less smoke to achieve the same dose.

MR. GARHART addressed earlier discussion about the correlation between violence and marijuana with the following quote from the MERC manual:

...tests that identify an inactive metabolite, identify use only, not dysfunction. The smoker may be free of the drug effect after the urine is tested. The tests can detect extremely small amounts and so is of little value in identifying the pattern of use.

MR. GARHART said line 9 on page 2 says, "The main psychoactive ingredient nationwide was up to 1 percent in the 1960s and 1970s, but it increased in the 1980s and 90s." However, in the past few years when Germany, Great Britain, and Canada relegalized the hemp industry, their laws required that hemp products had to be less than 1 percent THC since they considered that level to be the threshold level for a psychoactive affect. Consequently, if the THC average really was less than 1 percent in the 60s and 70s, then there is evidence that none of the people using the drug at that time really experienced a psychoactive effect.

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MR. GARHART said if SB 74 passed, the courts would throw it out.

JOHN FAIRLEIGH, Anchorage, said that while the intent of the bill seems to be to keep marijuana away from children it does not speak to that intent. Contributing to the delinquency of a minor is already a crime and distributing marijuana is already a felony. The Surgeon General released the following information over the last 20 years regarding the danger of marijuana relative to other substances in terms of the number of deaths caused:

Tobacco over 400,000 deaths per year; alcohol between 125,000 and 150,000 deaths per year; aspirin over a 1000 deaths per year; caffeine 10,000 deaths per year; legal drug overdoses over 30,000 deaths per year; illicit drug overdoses over 5,000 deaths per year.

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He stated he has yet to see evidence of even a single death directly caused by marijuana. Even the government does not claim that marijuana can be lethal and, consequently, it is simply not productive to compare marijuana to heroin. He asked his 7th grade son if he could get marijuana and his son responded that it was not a problem to get marijuana in middle school, but he said that he could not find alcohol or tobacco.

MR. FAIRLEIGH said the outcome of 2004s Proposition 2 shows that 44 percent of Alaskan's voted in favor of legalizing marijuana. Any efforts spent on the bill would be wasted since the courts would simply rule the bill unconstitutional and the committee members would do well to consider the implications of the bill in their political calculus.

SENATOR WILKEN said:

Sir, I just wanted to tell you my political calculus. I am looking forward to going home and telling the people that I represent why I support this bill. So thank you.

3:06:53 PM

LINDA RONAN, Anchorage, said SB 74 is an unwarranted intrusion on the privacy of Alaskan's and she is extremely disappointed by it. She has smoked marijuana for 30 years and has two adult children who are currently nurses who have never smoked marijuana. She said that she never smoked marijuana in front of her children because she is a responsible adult. She said that she had recently lost a daughter to a cocaine overdose and remarked that law enforcement agencies should devote more of their resources to hard drugs such as cocaine and heroin.

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MAKO HAGGERTY, Homer, testified he is 50 years old, a business owner, a member of the Chamber of Commerce, a Republican and an active member of the community. He opposed SB 74. He said that the bill would criminalize a whole segment of his community. The proponents are applying backward logic in citing the correlation between marijuana and violence. They have cited this correlation to imply that marijuana causes violent crime, but they have no evidence of a causal link between the two. He said that the logical mistake is all the more glaring given that any police officer will tell you that a marijuana user is one of the individuals least likely to exhibit violent behavior.

Many references were made to the growing use of marijuana by juveniles but, the only thing that SB 74 would do is penalize adult users without affecting juvenile users. The attached fiscal note is \$165,000 for the first year alone and he remarked the committee should be more concerned with failing schools or rural infrastructure instead of whether or not some individuals are getting high in the privacy of their own homes. He said the

fiscal note is under-projected since it does not mention the inevitable increase in the cost to the Department of Corrections that SB 74 would cause. He begged the committee to be honest about the real cost of the bill.

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DAVE SWARTHOUT, Homer, opposed SB 74. He praised Ms. Brink for her courage in her testimony. Most of the people he knows that use marijuana run their lives successfully and properly and they are honorable citizens. The bill could make people felons overnight and is an affront to privacy. He said Dr. Fielder's statement that marijuana creates a nightmare of craving must refer to exceptional cases. The assertion that the social cost of marijuana exceeds that of alcohol is ridiculous.

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MR. SWARTHOUT said given his personal experience with marijuana users, it seemed the researchers that testified earlier must be looking at a different population. He does not know anybody that spends a significant amount of time seeking out marijuana. He objected to Senator Wilken's criticism of Ms. Brink's testimony and remarked that to continue and intensify the same war on drugs that has been proven to be both extensive and hugely ineffective just serves to make a bad situation worse. He said America already has a higher prison population than most first world countries and most of our prisoners are incarcerated for drug offenses.

DR. BOB JOHNSON, Kodiak, said:

I am Doctor Bob Johnson, a retired physician. I practiced medicine in Kodiak for forty years. My chosen specialties were substance abuse and addiction and mind-body medicine. I was a founder of the Kodiak Mental Health Center in 1970, the Kodiak Council of Alcoholism (KCA) in 1971 and the first JCAH approved substance treatment abuse program in Alaska, the Whole House. I was a medical consultant to that program and held weekly education sessions with clients until my retirement.

I taught a 40-hour science course on alcoholism at the Kodiak College in 1976 and 1977 and was a director of the National Council on Alcoholism in the Alaska region in 1978. I served as president of the

governor's advisory board on alcoholism from 1981 to 1984. I was medical director of the KCA outpatient detoxification unit from 1990 to 1994 and I was an advocate for combining the drug and alcohol review board.

Let me acquaint you with some history that I feel is pertinent to SB 74. Punitive measures for the control of drug use have been tried for centuries. The most common of such drugs was alcohol and laws attempting to control drunkenness appeared first in the early 14th century. These continued to appear, particularly in England up until the discovery of America. In this country, one state after another instituted laws prohibiting the use and manufacture of alcohol, but every one was repealed when it was found that they were ineffective including the Holmstead Act of 1920, which was known as National Prohibition. This law lasted ten years before it was repealed, at which time the problem of organized crime in Chicago and New York City had become more serious than the alcohol problem. Besides, the per capita consumption of alcohol had grown beyond that prior to the enactment of the act.

The alcohol problem still exists, but is under control largely because of the Uniform Alcoholism Act of 1970, which recognized addiction as a disease and lead to research into the problem and the establishment of institutions and treatment programs all over the country. The Presidential Commission put together the Uniform Control Substances Act of 1970, which recognized addiction to the other drugs as a disease, and acknowledging that their use was illegal, emphasized research and treatment as a more appropriate means of control.

Treatment programs were being established throughout the county until, during the Regan years, congress enacted more punitive laws designed to control what is visualized as the quote 'Drug Problem'. Since then more and more punitive laws have been established. Each have had little effect on the problem of drug abuse and addiction, but have created a billion dollar industry in illegal drug trafficking, which as in prohibition, has created far more problems than has been associated with drug use per se.

Now to marijuana, which you are dealing with in this bill. At the request of the State Legislature, a committee of the Alaska State Medical Association, of which I was a member, investigated the effects of marijuana in the early 80s. The committee concluded that there are no long-term ill effects other than those similar to cigarette smoking and it was not addicting. It was found less dangerous than alcohol. The Alaskan State Medical Association felt it should be legally available. Unfortunately because of fear created and perpetuated by misinformed politicians, this relatively harmless drug has been made illegal. Many who possessed or used it, regardless of whether or not anyone was harmed, are now serving prison terms. In addition, those who would benefit from its use for the control of nausea induced by chemotherapy or terminal illness encounter great difficulty obtaining it.

The media often makes misinformed claims about the health effects of marijuana that are exactly the opposite of what we know. Assistant Federal Drug Czar, Scott Burns, visiting Alaska, told audiences that marijuana is dangerous, addictive, and of no medicinal value. Former United States attorney, Wev Shea, cited a handful of studies that he purports prove marijuana's evils. Even some physicians like Charles Hermden, who let his name be attached to the statement opposing ballot measure 2 in the last Alaskan election, will claim that marijuana has been scientifically proven harmful.

Who are we supposed to believe? The most recent national research body to weigh all the available evidence about marijuana's safety and medicinal potential was the Institute of Medicine (IOM), part of the National Academy of Science. Their 1999 report made detailed findings in a number of areas including that, 'compared to most other drugs, dependence among marijuana users is relatively rare'. They further found that 'there is no conclusive evidence that it causes cancer in humans, including cancers usually related to tobacco use' and 'it does not appear to be a gateway drug.' Earlier studies purporting to show structural changes in the brains of heavy marijuana users have not been replicated with more sophisticated techniques.

Alaskans might be especially interested to learn that there is little evidence that decriminalization necessarily leads to a substantial increase in marijuana use. Those questioning its medicinal value should know that nausea, appetite loss, pain and anxiety all can be medicated by marijuana. Although some medications are more effective than marijuana for these problems, they are not equally effective in all patients. The full (IOM) report can be viewed on line.

Cases of aberrant behavior, whether under the influence of a mood altering drug or not, are matters for law enforcement. Controlled use of a drug should not be. It is a sad fact that our federal government continues to base its marijuana laws on traditional misinformation rather than on the best science even when the government itself has paid for that research and analysis. Alaskans should not follow suit and be guilty of perpetuating the problem with enhanced punishment for marijuana use when no harm results from that use.

FRANK TURNER, Fairbanks, said the claim of a relationship between marijuana and violence is false. He said SB 74 would cause the incarceration of citizens who do not pose a threat to their communities. There would be astronomical costs associated with the enforcement of the bill if it passes. The bill would cause greater harm to society by locking up non-violent offenders than that which is currently caused by marijuana use and distribution. The aforementioned correlation between violent crime and marijuana does not exclude the possibility that marijuana may have no effect upon or may actually pacify inherently violent individuals. He said he knows people who have violent tendencies for whom marijuana is a godsend.

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DIRK NELSON, former licensed Alaskan social worker, said he has been a student of marijuana policy for the last 33 years. He said that the studies of the Marijuana Potency Project conducted in Mississippi that concluded the average THC content of marijuana in 1976 was .67 percent should be reconsidered in light of evidence put forth by Dr. John Morgan which concluded that at the same time, private laboratories were testing cannabis from the same market and getting an average of approximately 2.5 percent.

He said that the DSM, which references cannabis delusional disorder, dependence and abuse, was created by people who were his former colleagues and who benefit financially by pathologizing various issues. He said that when one considers how many instances of voluntary participation in marijuana treatment programs involve a suspended imposition of a sentence, one might arrive at a different interpretation of the aforementioned statistics than that which was given by the former speakers.

He said that in the last ten years of practicing as a clinician in a variety of places in Alaska, he has never once had an individual enter his door and say 'doc ya gotta help me with my cannabis addiction.' According to The MERC Manuel, very few people are addicted to cannabis; the MERC index indicates that a greater number suffer from psychological addiction. The definition and criteria of a psychological addiction is much more controversial than that of a physical addiction. He said that there is no credible evidence to date of psychological or other delusional disorders caused, in mass, by cannabis use.

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MR. NELSON said SB 74 concerns the court's decision in the Ravin case, which made the age of consent 19 years of age. It does not concern whether or not it is ok for adolescents to use pot. He said that so long as we are on the issue, he would like to reference Bernard Segal's 1988 study that showed that there was no correlation between the legal status of cannabis and its rate of use among adolescents. He said studies involving self-reporting should be taken with a grain of salt since adolescents often misrepresent themselves on such surveys.

He said that, with regards to Dr. Murray and the (ONDCP), in late 2003, Representative Ron Paul of Texas filed an inquiry with the Government Accountability Office (GAO) about the credibility of the ONDCP's claims. The response he received from the GAO was somewhat history making because, they stated, in March 2004, that they were not going to scrutinize ONDCP's statements for factual relevance. In other words, in the first time since the 1940's Anti-propaganda Law was passed, the American Government gave an agency permission to lie.

CHAIR DYSON held SB 74 in committee. There being no further business to come before the committee, he adjourned the meeting at [3:33:03 PM](#).

