

COMMITTEE REPORT
HOUSE

FURTHER:

Date: 5-9-84

Mr. Speaker:

The Committee on FINANCE has had HB 698

"An Act relating to marijuana; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 698 (Subcommittee) same title
 new title
- and recommends individual recommendations
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation 4-19-84
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

 NELLO H. HERRICK
 WALTER FURNACE

MEMBERS HAVING
OTHER RECOMMENDATIONS:

 CHAIRMAN

Levy

Offered: 5/7/84
Referred: Rules

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 698 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to marijuana; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. FINDINGS. (a) The legislature finds that

10 (1) THC, the mind altering ingredient in marijuana, is not
11 soluble in water, but goes into the fatty tissues of the brain, testicles,
12 ovaries, and other internal organs, and takes 30 days to be eliminated from
13 the body;

14 (2) the buildup of THC in the body causes the user to smoke more
15 marijuana to achieve the desired high and may result in loss of sleep,
16 appetite, and initiative, as well as moodiness and depression;

17 (3) it is possible for a human being to overdose from the use of
18 marijuana, especially if it is used in conjunction with alcohol, because it
19 increases the effects of alcohol;

20 (4) the THC content of a marijuana cigarette 10 years ago was
21 one percent, but is as high as 10 percent per cigarette today;

22 (5) marijuana causes schizophrenia, illusions, and hallucina-
23 tions, including a dulling of the senses, creating the possibility that the
24 user is unable to respond to body signals, such as pain;

25 (6) although it may take a heavy cigarette smoker as long as 20
26 years to develop lung cancer, one marijuana cigarette a day may cause lung
27 cancer in three years;

28 (7) THC affects eggs, sperm, sexual hormones, and the develop-
29 ment of a fetus, and marijuana use may result in deformed or undersized

1 offspring;

2 (8) other physical reactions to marijuana include irreversible
3 changes in the brain, sinusitis, pharyngitis, bronchitis, emphysema, in-
4 creased heart rate, and decreased blood circulation; and

5 (9) other psychological reactions to marijuana include loss of
6 memory; impairment in thinking, reading comprehension, and verbal and
7 arithmetic problem solving; impairment of perception of distance and time;
8 and anxiety, panic, paranoia, psychosis, and psychological dependence.

9 (b) The legislature further finds there is a legitimate and com-
10 pelling governmental interest, based on testimonial evidence, that the
11 public health and welfare will suffer if personal use of marijuana even in
12 small amounts is allowed.

13 * Sec. 2. AS 11.71.060(a) is amended to read:

14 (a) Except as authorized in AS 17.30 or AS 17.35, a person
15 commits the crime of misconduct involving a controlled substance in
16 the sixth degree if the person

17 (1) uses or displays any amount of a schedule VIA con-
18 trolled substance or possesses one or more preparations, compounds,
19 mixtures, or substances of an aggregate weight of less than one-half
20 pound [ONE OUNCE OR MORE] containing a schedule VIA controlled sub-
21 stance [ON A PUBLIC STREET OR SIDEWALK OR ON THE PREMISES OF A PUBLIC
22 CARRIER OR BUSINESS ESTABLISHMENT OR IN ANY OTHER PUBLIC PLACE]; or

23 [(2) KNOWINGLY POSSESSES ANY AMOUNT OF A SCHEDULE VIA
24 CONTROLLED SUBSTANCE WITHIN THE IMMEDIATE CONTROL OF THAT PERSON WHILE
25 OPERATING A PROPELLED VEHICLE;

26 (3) BEING UNDER 19 YEARS OF AGE, POSSESSES ONE OR MORE
27 PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE
28 WEIGHT OF LESS THAN FOUR OUNCES CONTAINING A SCHEDULE VIA CONTROLLED
29 SUBSTANCE;

1 (4) POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS, MIX-
2 TURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF FOUR OUNCES OR MORE
3 CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE; OR]

4 (2) [(5)] refuses entry into a premises for an inspection
5 authorized under AS 17.30.

6 * Sec. 3. AS 11.71.070 is repealed.

7 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

FISCAL NOTE

Revision Date: April 19, 1984

REQUEST

Bill/Resolution No. HB 698 (710)
 Title: "An Act relating to
 marijuana..."

Sponsor: House Judiciary
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected:
Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		142.9	151.5	160.6	170.2	180.4
200 TRAVEL		6.5	6.9	7.3	7.7	8.2
300 CONTRACTUAL		61.5	63.8	41.2	43.7	46.3
400 SUPPLIES		17.4	12.1	12.8	13.6	14.4
500 EQUIPMENT		7.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		235.8	234.3	221.9	235.2	249.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		235.8	234.3	221.9	235.2	249.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		4	4	4	4	4
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues Director
 Division: Administrative Services

Phone: 465-3672

Date: 4/19/84

Approved by Commissioner: Norman C. Gorsuch
 Agency: Department of Law

Date: 4/19/84

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

April 19, 1984

HB 698 is a blanket provision which would make possession or use of less than one-half pound of marijuana by anyone a class B misdemeanor. Some of the conduct which this bill would cover (such as use or display of any amount in a public place, possession of any amount while operating a motor vehicle, or possession of more than four ounces of marijuana anywhere) is a class B misdemeanor under existing law. See AS 11.71.060. Some of the conduct which this bill would make a crime (such as delivery of less than one-half ounce or possession of less than one ounce in public) is classified under current law as a "violation", punishable by a fine. See AS 11.71.070. The penalties under current law for other conduct such as delivery of one-half ounce or more, delivery to a minor, or possession of any amount on school grounds would not be altered. Penalties under existing law for these offenses range from A misdemeanor to B felony level. See AS 11.71.030, .040, and .050.

The passage of HB 698 would have fiscal impact on the Department of Law in three general areas: (1) the cost of defending the new law against constitutional challenge; (2) the cost of processing the resulting additional criminal cases; and (3) the cost of educating the public about the new law. These three areas are discussed separately below.

1. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of HB 698 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$100 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness

transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the

appellate court. Although these appeals would present an increased workload for the criminal division attorneys assigned to appellate work, no additional funding is requested for this aspect of HB 698's fiscal impact.

2. New Criminal Cases

Although some of the conduct included within the scope of HB 698 is already against the law, much behavior which is now classified as a "violation" or which is not now an offense of any sort will become a misdemeanor crime. It is difficult to accurately predict in advance the impact which the passage of HB 698 will have on the criminal justice system.

Some law enforcement officers who work primarily in the drug enforcement area believe that the new law could potentially result in "thousands" of new misdemeanor cases a year. They believe that the bill would cause an increased enforcement effort both in the areas not now covered by existing law and against persons who commit minor offenses which are already against the law. A great number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's

home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if HB 698 becomes law.

Prosecutors generally predict a lesser number of new potential criminal cases under HB 698 than do police. Once the public becomes aware of the new law, people are likely to be more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes, for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors expect a "few hundred" new criminal cases a year.

Cases which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional cases, the criminal division will require the addition of at least one Attorney III

position. It is anticipated that this additional position will be used to add one half-time attorney in both the Anchorage and Fairbanks District Attorney's offices.

It is anticipated that a large percentage (perhaps 50-75%) of the defendants in the new cases will be first time offenders who will be eligible for pretrial diversion. Given the light sentences which these persons are likely to receive if convicted, pretrial diversion (including required community work service) appears to be a well justified use of criminal justice system resources. Even if a case is diverted however, attorney time is required to screen the case and make the diversion arrangements. New pretrial diversion personnel will be needed to supervise the new cases. Existing pretrial diversion offices are now working at full capacity. The addition of hundreds of new cases to an already full caseload will require, at a minimum, the addition of two new full-time positions. This fiscal note therefore includes funding for a paralegal II position for the Anchorage office. (This person would also be responsible for new cases in Palmer.) Funding of one additional community counselor is also required. This position will be divided into two half-time positions, one assigned to the Northern region (Fairbanks), and one in the Southeast region.

3. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$15,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, and corrections.

4/19/84

Fiscal Analysis
CSHB 698 (Fin)

1. Defending the New Law

Admin. & Support Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$100 = \$12,000	\$12,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$40 = \$2,000	2,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence 6 trips X \$1,500 = \$9,000 travel	1,920 9,000
	<u>\$24,920</u>

This amount will be required for both FY 85 and FY 86, to cover both trials and appeals.

2. New Criminal Cases

Third Judicial District - Anchorage

	<u>Atty. III (PPT)</u>	<u>Total</u>
Personal Services	30.0	30.0
Travel - Witness travel subsistence, atty. travel	1.5	1.5
Contractual Services		
office commo. equip. repairs	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	1.5	1.5
		<hr/>
		40.8

Fourth Judicial District - Fairbanks

	<u>Atty. III (PPT)</u>	<u>Total</u>
Personal Services	34.1	34.1
Travel - Witness travel subsistence, Atty. travel	1.5	1.5
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	1.5	1.5
		<hr/>
		44.9

Pretrial Diversion

	<u>Paralegal Asst. ANC-PFT</u>	<u>Comm. Couns. FAI-PPT</u>	<u>Comm. Couns. JNU-PPT</u>	<u>Total</u>
Personal Services	40.6	20.3	17.9	78.8
Travel - Staff travel/subsistence to outlying areas	1.5	1.0	1.0	3.5
Contractual Services				
Office commo./equip repair	4.8	2.4	2.4	9.6
copy - postage	2.4	1.2	1.2	4.8
				<u>14.4</u>
Commodities - Ongoing office consumables	1.8	1.8	1.8	5.4
Commodities - one time New position materials	1.2	1.2	1.2	<u>3.6</u>
				9.0
Equipment - one time	1.5	1.5	1.5	4.5
	<u>53.8</u>	<u>29.4</u>	<u>27.0</u>	<u>110.2</u>

3. Public Education

Admin. & Support Component/Prosc. BRU

<u>Object</u>		<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	15.0	15.0
		<hr/> 15.0

Summary of Expenses

	<u>Defending the new law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		142.9		142.9
Travel		6.5		6.5
Contractual	24.9	21.6	15.0	61.5
Commodities		17.4		17.4
Equipment		7.5		7.5
	<hr/> 24.9	<hr/> 195.9	<hr/> 15.0	<hr/> 235.8

Costs beyond FY 85 include a 6% inflation factor, less one-time items. The costs for defending the new law will occur in both FY 85 and FY 86 and they will be eliminated thereafter.

1.	POSITION TITLE ATTORNEY III				RANGE/STEP 22A	ORG. UNIT PX	FORM 12 PAGE/LINE	GOV	APPROV	DISAP
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG		

3.	CONTINUATION LEVEL				ADDITION		
4.	TYPE OF EXPENDITURE				AMOUNT		
	1		2		3		
PERSONAL SERVICES							
5.	Salary	1,950 X 12	23,400				
6.	Benefits		3,838				
7.	Supplemental Benefits		1,434				
8.	Fixed Benefits		1,320				
9.	TOTAL PERSONAL SERVICES		01	29,992			
10.	Travel		02	1,500			
11.	Contractual		03	3,600			
12.	Commodities		04	4,200			
13.	Equipment		05	1,500			
14.	Other						
15.	TOTAL COST			40,792			

JUSTIFICATION

This permanent part-time position is required to handle the influx of new cases that will result when marijuana violations, or any use of marijuana, which is not now a violation, become misdemeanor offenses. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of HB 698. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District. Because these new cases will be classed as misdemeanor offenses, allocation of the position to the Attorney III level is appropriate.

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	40,792
19.		I-A Receipts	1005	
20.		Program Receipts	1020	
21.		Other		

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4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
BRU PROSECUTION
COMPONENT THIRD JUDICIAL DISTRICT

Page 1 of 1
Revised Date

FY 85

1.	POSITION TITLE ATTORNEY III				RANGE/STEP 22A	DARG. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 16	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 2,232 X 12	26,784	
6.	Benefits	4,393	
7.	Supplemental Benefits	1,642	
8.	Fixed Benefits	1,320	
9.	TOTAL PERSONAL SERVICES	01	34,139
10.	Travel	02	1,500
11.	Contractual	03	3,600
12.	Commodities	04	4,200
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		44,939

JUSTIFICATION

This permanent part-time position is required to handle the influx of new cases that will result when marijuana violations, or any use of marijuana, which is not now a violation, become misdemeanor offenses. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of HB 698. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor offenses, allocation of the position to the Attorney III level is appropriate.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	44,939
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

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AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
DRU PROSECUTION
COMPONENT FOURTH JUDICIAL DISTRICT

13 REQUEST FOR NEW POSITION

Page 1 of 1
Revised Date

FY 85

1.	POSITION TITLE PARALEGAL ASSISTANT II				RANGE/STEP 16A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.		

3.	CONTINUATION LEVEL	ADDITION		
4.	TYPE OF EXPENDITURE			AMOUNT
	1	2		3
	PERSONAL SERVICES			
5.	Salary	2,573 X 12	30,876	
6.	Benefits		5,064	
7.	Supplemental Benefits		1,893	
8.	Fixed Benefits		2,736	
9.	TOTAL PERSONAL SERVICES	01		40,569
10.	Travel	02		1,500
11.	Contractual	03		7,200
12.	Commodities	04		3,000
13.	Equipment	05		1,500
14.	Other			
15.	TOTAL COST			53,769

JUSTIFICATION

This full-time position is required to oversee community work service assignments for those misdemeanor offenders who are screened into the state's Pretrial Diversion Program. Because a large percentage of defendants in the new cases that will result from enactment of HB 698 will be first-time offenders, as many as 50% of these defendants may be eligible for pretrial diversion. This position will be responsible for providing pretrial diversion services in the Anchorage and Palmer area.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	53,769
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

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4A KEY NUMBER

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM DUE PROCESS

DRU PROSECUTION

COMPONENT PRETRIAL DIVERSION

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Revised Date

FY 85

1.	POSITION TITLE COMMUNITY COUNSELOR				RANGE/STEP 14A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV	APPROV	DISAPP
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG		

3.	CONTINUATION LEVEL			ADDITION	
4.	TYPE OF EXPENDITURE				AMOUNT
	1		2		3
	PERSONAL SERVICES				
5.	Salary	1,121 X 12		13,452	
6.	Benefits			2,206	
7.	Supplemental Benefits			825	
8.	Fixed Benefits			1,368	
9.	TOTAL PERSONAL SERVICES			01	17,851
10.	Travel		02		1,000
11.	Contractual		03		3,600
12.	Commodities		04		3,000
13.	Equipment		05		1,500
14.	Other				
15.	TOTAL COST				26,951

JUSTIFICATION

This permanent part-time position is required to oversee community work service assignments for those misdemeanor offenders who are screened into the state's Pretrial Diversion Program. Because a large percentage of defendants in the new cases that will result from enactment of HB 698 will be first-time offenders, as many as 50% of these defendants may be eligible for pretrial diversion. This position will be responsible for providing pretrial diversion services in the Southeast Region, centered at Juneau.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	26,951
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

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13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
DRU PROSECUTION
COMPONENT PRETRIAL DIVERSION

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Revised Date

FY 85

1.	POSITION TITLE COMMUNITY COUNSELOR			RANGE/STEP 14A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV	APPROV	DISAP
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 15	LEG	
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	1,287 X 12	15,444						
6.	Benefits		2,533						
7.	Supplemental Benefits		947						
8.	Fixed Benefits		1,368						
9.	TOTAL PERSONAL SERVICES		01	20,292					
10.	Travel		02	1,000					
11.	Contractual		03	3,600					
12.	Commodities		04	3,000					
13.	Equipment		05	1,500					
14.	Other								
15.	TOTAL COST			29,392					

RANGE/STEP 14A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV	APPROV	DISAP
DRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 15	LEG		

JUSTIFICATION

This permanent part-time position is required to oversee community work service assignments for those misdemeanor offenders who are screened into the state's Pretrial Diversion Program. Because a large percentage of defendants in the new cases that will result from enactment of HB 698 will be first-time offenders, as many as 50% of these defendants may be eligible for pretrial diversion. This position will be responsible for providing pretrial diversion services in the Northern Region, centered at Fairbanks.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	29,392
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

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13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
DRU PROSECUTION
COMPONENT PRETRIAL DIVERSION

Page 1 of 1
Revised Date

FY 85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: April 30, 1984

I. REQUEST

Bill/Resolution No.: HB698
Title: "An Act relating to Marijuana"
Sponsor: House Judiciary
Requestor: _____
Date of Request: _____

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.
Program Category Affected: Due Process
BRU, Program of Subprogram(s) Affected: Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		127.9	135.6	143.7	152.3	161.4
200 TRAVEL		6.0	6.4	1.5	1.6	1.7
300 CONTRACTUAL		11.0	11.7	3.6	3.8	4.0
400 COMMODITIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		3.0	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	149.9	155.8	151.0	160.0	169.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	149.9	155.8	151.0	160.0	169.5
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	149.9	155.8	151.0	160.0	169.5

POSITIONS:

FULL-TIME	-0-	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						
TOTAL	-0-	2.0	2.0	2.0	2.0	2.0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes Bob Stokes, Admin. Off. Phone: 273-7541
Division: Dana Fabelo Dana Fabelo, Public Defender Date: April 30, 1984
Approved by Commissioner: Lisa Rudd Date: 5/8/84
Department: Administration

RECEIVED
 1984 MAY - 1 A 11
 DEPT. OF ADMINISTRATION
 OFFICE OF COMMISSIONER

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

9/14/83

FISCAL NOTE ANALYSIS
HB 698

ALASKA PUBLIC DEFENDER AGENCY
April 30, 1984

HB 698 would criminalize a wide range of conduct involving the use and possession of marijuana, making it punishable by incarceration and thus requiring representation by an attorney.

The Department of Law predicts that it would prosecute at least several hundred of these cases a year, both in Fairbanks and in Anchorage. Furthermore, costly and time consuming challenges to the new law would be required as an integral part of the defense of these cases.

The Alaska Supreme Court in Ravin v. State found that insufficient evidence of marijuana's harm existed to justify the invasion of personal privacy which a prosecution for possession in the home would entail. In order for this bill to overcome that ruling, the trial courts will have to hold hearings to hear new evidence on the harmfulness of marijuana. The defense will prepare extensive written motions on this subject, involving substantial attorney time. Both sides will be calling medical and scientific experts to testify on the most recent data regarding marijuana and its effects.

Based on the state's predictions regarding the probable number of prosecutions, it will be necessary to have two additional attorneys for the Public Defender Agency, one each for our Anchorage and Fairbanks offices, to handle the defense and appeal of these new cases. This assessment is based in part on the national caseload standards which recommend that an assistant public defender handle no more than a maximum of 400 misdemeanor cases per year. Furthermore, each attorney will also be handling the extensive motion work, hearings with experts, and appeals which will be involved with this bill.

BUDGET SUMMARY

HB698

Third Judicial District - Anchorage:

Personal Services - Attorney III	60.0
Travel - Experts	3.5
Contractual - Experts	6.5
Commodities - Law Library	1.0
Equipment - One Time	<u>1.5</u>
	72.5

Fourth Judicial District - Fairbanks:

Personal Services - Attorney III	67.9
Travel - Experts	2.5
Contractual - Experts	4.5
Commodities - Law Library	1.0
Equipment - One Time	<u>1.5</u>
	77.4
TOTAL	149.9

1.	POSITION TITLE Attorney III				RANGE/STEP 22A	BARG. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		3					
	PERSONAL SERVICES									
5.	Salary \$3900/mo.		46,800							
6.	Benefits		8,007							
7.	Supplemental Benefits		2,550							
8.	Fixed Benefits		2,630							
9.	TOTAL PERSONAL SERVICES		01		59,987					
10.	Travel		02		3,500					
11.	Contractual		03		6,500					
12.	Commodities		04		1,000					
13.	Equipment		05		1,500					
14.	Other									
15.	TOTAL COST				72,487					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Match 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This Attorney III position is required to handle the influx of new cases that will result when marijuana violations, or any use of marijuana which is not now a violation, become misdemeanor offenses. The Department of Law expects that at least a few hundred such offenses will occur each year as a result of the enactment of HB698. This position will be responsible for defending those new cases that are brought in the Third Judicial District and will also handle all resulting appeals. Because these new cases will be classed as misdemeanor offenses, allocation of the position to the Attorney III level is appropriate.

13 REQUEST FOR
NEW POSITION

AGENCY Dept. of Administration
PROGRAM Due Process
BRU Public Defender Agency
COMPONENT Third Judicial District

FY 85

Page 1 of 2
Revised Date 4/30/84

1.	POSITION TITLE Attorney III			RANGE/STEP 22A	BARC. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 16	LEG.	

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary \$4464/mo	53,568	
6.	Benefits	9,165	
7.	Supplemental Benefits	2,550	
8.	Fixed Benefits	2,630	
9.	TOTAL PERSONAL SERVICES	01	67,913
10.	Travel	02	2,500
11.	Contractual	03	4,500
12.	Commodities	04	1,000
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		77,413

JUSTIFICATION

This Attorney III position is required to handle the influx of new cases that will result when marijuana violations, or any use of marijuana which is not now a violation, become misdemeanor offenses. The Department of Law expects that at least a few hundred such offenses will occur each year as a result of the enactment of HB698. This position will be responsible for defending those new cases that are brought in the Fourth Judicial District and will also handle all resulting appeals. Because these new cases will be classed as misdemeanor offenses, allocation of the position to the Attorney III level is appropriate.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	77,413
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR D&M USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Dept. of Administration
PROGRAM Due Process
BRU Public Defender Agency
Fourth Judicial District
COMPONENT _____

Page 2 of 2
Revised Date 4/30/84

FY 85

COMMITTEE REPORT

5/10

HOUSE

Rules

(11)

ARTHER:

5/7/84

Action
Revised on
accepting
Finance CS
5-9-84
to accept quo

5-8-84

The Committee on FIN
"An Act relating to :

HB 698

n effective date."

under consideration and

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with CS for HB 698 (Fin) [X] same title [] new title

and recommends Individual Recommendations

[] AND attaches a "Letter of Intent" [X] New Fiscal Note 4-19-84

[] reports it back without recommendation [] Zero Fiscal Note Attached

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Walt Furnace
Vernon Harbo
J.H. [unclear]

MILTON H. FRITZ (No Rec)
LINDAUER - Do Not Pass unless Penalties increased.
[unclear] (No Rec)
[unclear] (No Rec)
[unclear] (No Rec)
[unclear] No Rec.
[unclear] No Rec

[unclear]
CHAIRMAN

COMMITTEE REPORT

5/10

HOUSE

Rules

(11)

FURTHER:

(Finance referral added 5/7/84)

Date:

5-8-84

5/7/84

The Committee on FINANCE has had HB 698

"An Act relating to marijuana; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 698 (Fin) same title
 new title
- and recommends Individual Recommendations
- AND attaches a "Letter of Intent" ~~New~~ Fiscal Note 4-19-84
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Walt Furnace
Vernon Harbo
J.H. Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

MILTON H. FRITZ (NO REC)
LINDAUER - Do not Pass unless Penalties increased.
Ben [unclear] (No Rec)
Ed Duncan (No Rec)
Just [unclear] (No Rec)
J.B. Stewart No Rec.
Robert. Adams No Rec

Robert. Adams
 CHAIRMAN

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 698 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to marijuana; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. FINDINGS. (a) The legislature finds that

10 (1) THC, the mind altering ingredient in marijuana, is not
11 soluble in water, but goes into the fatty tissues of the brain, testicles,
12 ovaries, and other internal organs, and takes 30 days to be eliminated from
13 the body;

14 (2) the buildup of THC in the body causes the user to smoke more
15 marijuana to achieve the desired high and may result in loss of sleep,
16 appetite, and initiative, as well as moodiness and depression;

17 (3) it is possible for a human being to overdose from the use of
18 marijuana, especially if it is used in conjunction with alcohol, because it
19 increases the effects of alcohol;

20 (4) the THC content of a marijuana cigarette 10 years ago was
21 one percent, but is as high as 10 percent per cigarette today;

22 (5) marijuana causes schizophrenia, illusions, and hallucina-
23 tions, including a dulling of the senses, creating the possibility that the
24 user is unable to respond to body signals, such as pain;

25 (6) although it may take a heavy cigarette smoker as long as 20
26 years to develop lung cancer, one marijuana cigarette a day may cause lung
27 cancer in three years;

28 (7) THC affects eggs, sperm, sexual hormones, and the develop-
29 ment of a fetus, and marijuana use may result in deformed or undersized

1 offspring;

2 (8) other physical reactions to marijuana include irreversible
3 changes in the brain, sinusitis, pharyngitis, bronchitis, emphysema, in-
4 creased heart rate, and decreased blood circulation; and

5 (9) other psychological reactions to marijuana include loss of
6 memory; impairment in thinking, reading comprehension, and verbal and
7 arithmetic problem solving; impairment of perception of distance and time;
8 and anxiety, panic, paranoia, psychosis, and psychological dependence.

9 (b) The legislature further finds there is a legitimate and com-
10 pelling governmental interest, based on testimonial evidence, that the
11 public health and welfare will suffer if personal use of marijuana even in
12 small amounts is allowed.

13 * Sec. 2. AS 11.71.060(a) is amended to read:

14 (a) Except as authorized in AS 17.30 or AS 17.35, a person
15 commits the crime of misconduct involving a controlled substance in
16 the sixth degree if the person

17 (1) uses or displays any amount of a schedule VIA con-
18 trolled substance or possesses one or more preparations, compounds,
19 mixtures, or substances of an aggregate weight of one ounce or more
20 containing a schedule VIA controlled substance [ON A PUBLIC STREET OR
21 SIDEWALK OR ON THE PREMISES OF A PUBLIC CARRIER OR BUSINESS
22 ESTABLISHMENT OR IN ANY OTHER PUBLIC PLACE;

23 (2) KNOWINGLY POSSESSES ANY AMOUNT OF A SCHEDULE VIA
24 CONTROLLED SUBSTANCE WITHIN THE IMMEDIATE CONTROL OF THAT PERSON WHILE
25 OPERATING A PROPELLED VEHICLE;

26 (3) BEING UNDER 19 YEARS OF AGE, POSSESSES ONE OR MORE
27 PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE
28 WEIGHT OF LESS THAN FOUR OUNCES CONTAINING A SCHEDULE VIA CONTROLLED
29 SUBSTANCE;

1 (4) -POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS, MIX-
2 TURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF FOUR OUNCES OR MORE
3 CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE]; or

4 (2) [(5)] refuses entry into a premises for an inspection
5 authorized under AS 17.30.

6 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

CC

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 698
Title: An Act Relating to
Marijuana
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL
Agency Affected: Alaska Court System
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

This zero fiscal note is based on the assumption that additional resources will not be added to State troopers, local police, or prosecuting attorney offices as a result of this legislation.

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard Barrier Phone: 264-0545
Division: _____ Date: March 14, 1984

Approved by Commissioner: *[Signature]* Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

HB 698

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 698
 Title: "An act relating to marijuana..."
 Sponsor: Judiciary Committee
 Requestor: House Judiciary
 Date of Request: 3-16-84

FISCAL DETAIL
 Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
 Division: Alaska State Troopers *mcr* Date: 03/09/84

Approved by Commissioner: Robert J. Sundberg *[Signature]* Date: 3/23/84
 Agency: Public Safety *[Signature]*

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Introduced: 3/5/84
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

HOUSE BILL NO. 698

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to marijuana; and providing for an effective date."

7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. AS 11.71.060(a) is amended to read:

10

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11

commits the crime of misconduct involving a controlled substance in

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14

trolled substance or possesses one or more preparations, compounds,

15

mixtures, or substances of an aggregate weight of less than one-half

16

pound [ONE OUNCE OR MORE] containing a schedule VIA controlled sub-

17

stance [ON A PUBLIC STREET OR SIDEWALK OR ON THE PREMISES OF A PUBLIC

18

CARRIER OR BUSINESS ESTABLISHMENT OR IN ANY OTHER PUBLIC PLACE]; or

19

[(2) KNOWINGLY POSSESSES ANY AMOUNT OF A SCHEDULE VIA

20

CONTROLLED SUBSTANCE WITHIN THE IMMEDIATE CONTROL OF THAT PERSON WHILE

21

OPERATING A PROPELLED VEHICLE;

22

(3) BEING UNDER 19 YEARS OF AGE, POSSESSES ONE OR MORE

23

PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE

24

WEIGHT OF LESS THAN FOUR OUNCES CONTAINING A SCHEDULE VIA CONTROLLED

25

SUBSTANCE;

26

(4) POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS, MIX-

27

TURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF FOUR OUNCES OR MORE

28

CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE; OR]

29

(2) [(5)] refuses entry into a premises for an inspection

1 authorized under AS 17.30.

2 * Sec. 2. AS 11.71.070 is repealed.

3 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-

4 10.070(c).