

SB

32

file 1

# The Basics

Introductory, Hearing Setup,  
& Followup

CSSB 32 (HESS) -- "An Act relating to marijuana, and providing for an effective date."

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- 23) Copy of the executive summary of "Patterns of Drug Use: School Survey", prepared by Bernard Segal, et al., The Center for Alcohol and Addiction Studies, UAA
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- 25) Copy of article, "Alaska's Right to Privacy Ten Years after Ravin vs. State: Developing a Jurisprudence of Privacy", Alaska Law Review
- 26) Copy of article, "Identifying the Marihuana User", by Forest Tennant, Jr.



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

April 6, 1988

POUCH V  
JUNEAU, AK 99811  
465-3759

### Proposed Structure for Hearings on CSSB 32 (HESS)

There is considerable statewide interest, both pro and con, in CSSB 32 (HESS), which proposes to criminalize the possession of small amounts of marijuana by adults in the home. The House HESS Committee will have three consecutive hearings on this bill. The medical findings are complex, and there are many legal and constitutional questions. In order for the Committee to adequately assess this legislation and make informed decisions, it is necessary to structure the hearings so that informed witnesses have the opportunity to testify on specific aspects of the bill.

What follows is the proposed structure for the hearings. Generally, the two morning sessions will be for testimony by expert witnesses, although others are encouraged to listen in. The one evening session will be for general public testimony. All meetings will take place in the Butrovich Room of the Capitol Building, and will be widely teleconferenced to Legislative Information Offices.

\*\*\*\*\*

Wednesday, April 13, 8:30-10:00 a.m.

- \* teleconference to those sites requested
- \* testimony primarily from invited experts
- \* public testimony pertaining to the aspect at hand, if time permits, otherwise listen only

- 1) Background information.
  - a) statement by Committee Co-Chairs
  - b) statement by bill sponsor
  - c) explanation of current laws regarding marijuana
  - d) legislative history and context for the Ravin decision in 1975
- 2) Ravin v. State - explanation of the Supreme Court decision.
- 3) Penalties section (sec. 2) of CSHB 32 (HESS).
  - a) explanation of penalties
  - b) questions of constitutionality
  - c) questions of the deterrent effect
  - d) questions of enforcement, selective enforcement
  - e) questions of severity and appropriateness to the crime

Proposed schedule

\*\*\*\*\*

Wednesday, April 13, 7:00-9:00 p.m.

- \* statewide teleconference to all LIOs
- \* general public testimony, limited to 3 minutes per individual and 5 minutes per representative of a group

\*\*\*\*\*

Thursday, April 14, 8:30-10:00 a.m.

- \* teleconference to those sites requested
- \* testimony primarily from invited experts
- \* public testimony pertaining to the aspect at hand, if time permits, otherwise listen only

- 4) Findings section (sec. 1) of CSHB 32 (HESS).
  - a) discussion of marijuana pharmacology: physical and psychological effects; chemical content of the drug
  - b) discussion of marijuana usage: patterns, availability and social effects
  - c) marijuana and health in the context of alcohol and tobacco
  
- 5) Fiscal impact of CSHB 32 (HESS). (note - this aspect may be carried over to April 15, depending on time constraints)
  - a) Dept. of Corrections
  - b) Dept. of Health and Social Services
  - c) Dept. of Law
  - d) Court System
  - e) Dept. of Public Safety
  - f) Public Defender Agency
  - g) Office of Public Advocacy

\*\*\*\*\*

On the days immediately preceding and following the hearings on CSHB 32 (HESS), April 12 and 15, the Committee will be hearing several other bills related to substances and substance abuse. Particular attention will be paid to those measures which prevent and treat substance abuse by young people. Both days will be teleconferenced statewide, and public participation is welcome.

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

WEDNESDAY, APRIL 13, 1988

EXPERTS INVITED TO TESTIFY REGARDING BACKGROUND INFORMATION,  
RAVIN VS. STATE AND PENALTIES ASSOCIATED WITH CSSB 32 (HESS)

Background Information

- 1) Senator Paul Fischer  
Sponsor of SB 32
- 2) Representative Alyce Hanley
- 3) Stephanie Joannides  
Department of Law
- 4) Dwayne Otis  
U.S. Customs
- 5) David Teal, Director  
House Research Agency

Ravin vs. State

- 1) Robert Wagstaff  
Defending Attorney: Ravin vs. State
- 2) William Bittner  
Prosecuting Attorney: Ravin vs. State
- 3) Irwin Ravin  
Defendent: Ravin vs. State

Penalties

- 1) Stephanie Joannides  
Department of Law
- 2) Don Clocksin  
Alaska Civil Liberties Union
- 3) Jack Chenoweth  
Legislative Legal Counsel
- 4) Dr. Arnold Trebach  
Dept. of Justice  
American University, Washington D.C.
- 5) Michael Spaan  
U.S. District Attorney, Anchorage
- 6) Jon Gettman, Director  
National Organization for the Reform of Marijuana Laws

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

THURSDAY, APRIL 14, 1988

EXPERTS INVITED TO TESTIFY ON THE FINDINGS SECTION OF  
CSSB 32 (HESS)

- 1) Dr. Norman Zinberg, M.D.  
School of Psychiatry  
Harvard Medical School
- 2) Dr. Robert Gilkeson, M.D.  
Adolescent Neuropsychiatrist, Pediatrician
- 3) Dr. John Morgan, M.D.  
Director of Pharmacology  
City University of New York
- 4) Dr. Jean Bonner, M.D.  
Endocrinologist, private practice  
Anchorage
- 5) Dr. Lester Grispoon, M.D.  
Massachusetts Mental Health Center  
Editor, "Harvard Mental Health Letter"
- 6) Dr. Bernard Segal  
Center for Alcohol and Addiction Studies  
University of Alaska Anchorage
- 7) Dr. Arthur McBay, M.D.  
Chief Medical Examiner  
State of North Carolina
- 8) Dr. Forrest Tennant Jr., M.D., DR. PH.  
UCLA School of Public Health
- 9) Dr. Arnold Relman, M.D.  
Editor, "The New England Journal of Medicine"  
Report Chairman -- Marijuana and Health
- 10) Otto Moulton, Director  
Committees of Correspondence  
Danvers, Massachusetts
- 11) George Taft  
Scientific Crime Detection Lab  
Department of Public Safety

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 3, 1987

SUBJECT: Sectional analysis of CSSB 32(HESS),  
relating to marijuana

TO: Senator Paul Fischer  
Chairman, HESS Committee

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested a sectional analysis of CSSB 32(HESS). As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 sets out legislative findings related to marijuana, including the finding that the state has a compelling interest in regulating even small amounts of marijuana.

Section 2 amends existing law to make the possession of up to one-half pound of a "schedule VIA controlled substance," i.e., marijuana, a class B misdemeanor (AS 11.71.060(a)).

Section 3 repeals AS 11.71.070, because that section applies to amounts of marijuana that would be covered by AS 11.71.060, as amended by section 2 of the bill.

Under current law, it is already a class B misdemeanor:

(1) to use or display any amount of marijuana in public (AS 11.71.060(a)(1));

(2) to possess any amount of marijuana in a propelled vehicle (AS 11.71.060(a)(2));

(3) for a person under 19 years of age to possess less than four ounces of marijuana (AS 11.71.060(a)(3)); or

Senator Fischer  
Page 2  
April 3, 1987

(4) for anyone to possess four ounces of marijuana or more anywhere (AS 11.71.060(a)(4)).

It is a class A misdemeanor under current law to manufacture or deliver one-half ounce or more of marijuana (AS 11.71.050(a)(1)) or to possess a half-pound or more of marijuana (AS 11.71.050(a)(3)). It is a class C felony under current law to manufacture or deliver one ounce or more of marijuana (AS 11.71.040(a)(2)) or to possess any amount of marijuana on school grounds if the person is 18 years of age or older (AS 11.71.040(a)(4)). And it is a class B felony to deliver any amount of marijuana to a person under 19 years of age if the person is at least three years younger than the person delivering the marijuana. Thus, the use, possession, or sale of marijuana is already a crime under existing law except for the possession of under four ounces of marijuana by an adult in the home. The bill adds this narrow area to the criminal law. As discussed in the memorandum dated October 29, 1986, it is this narrow area of marijuana possession that presents constitutional problems under the ruling of the Alaska Supreme Court in Ravin v. State, 537 P.2d 494 (Alaska 1975).

If I may be of further assistance, please advise.

KBL:mkr  
m10/100

Revised

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

THURSDAY, APRIL 14, 1988

EXPERTS INVITED TO TESTIFY ON THE FINDINGS SECTION OF  
CSSB 32 (HESS)

- 1) Michael Spaan  
U.S. District Attorney, Anchorage
- 2) Dr. Norman Zinberg, M.D.  
School of Psychiatry  
Harvard Medical School
- 3) Dr. Edward Jacobs  
School of Medicine  
University of Southern California
- 4) Dr. John Morgan, M.D.  
Director of Pharmacology  
City University of New York
- 5) Dr. Jean Bonner, M.D.  
Endocrinologist, private practice  
Anchorage
- 6) Dr. Lester Grispoon, M.D.  
Massachusetts Mental Health Center  
Editor, "Harvard Mental Health Letter"
- 7) Dr. Bernard Segal  
Center for Alcohol and Addiction Studies  
University of Alaska Anchorage
- 8) Dr. Arthur McBay, M.D.  
Chief Medical Examiner  
State of North Carolina
- 9) Dr. Robert Gilkeson, M.D.  
Adolescent Neuropsychiatrist, Pediatrician
- 10) Otto Moulton, Director  
Committees of Correspondence  
Danvers, Massachusetts
- 11) George Taft  
Scientific Crime Detection Lab  
Department of Public Safety
- 12) Chip Ames  
Drug Counselor  
Ketchikan



Chief Justice  
WARREN W. MATTHEWS

303 K STREET  
ANCHORAGE ALASKA 99501  
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Justices  
JAY A. RABINOWITZ  
EDMOND W. BURKE  
ALLEN T. COMPTON  
DANIEL A. MOORE

Supreme Court  
State of Alaska

April 8, 1988

Representative Niilo Koponen  
Representative Johnny Ellis  
Co-Chairpersons House HESS Committee  
P.O. Box V  
Juneau, Alaska 99811

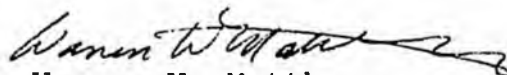
Dear Representatives Koponen and Ellis:

I must respectfully decline the committee's request that a justice answer questions about the opinion in Ravin v. State, 537 P.2d 494. There are two reasons for this.

First, a published judicial opinion must speak for itself. No justice, or group of justices, can authoritatively interpret an opinion or explain its ambiguities, if any, except in the context of a subsequent opinion.

Second, when a judge testifies before a legislative committee concerning the law, his testimony is, directly or indirectly, in the nature of legal advice. Legal advice, especially legal advice on controversial subjects, is often quickly tested in litigation. When this happens, the judge who has testified is apt to find himself in the position of having to rule on the validity of the advice that he has earlier given. This, of course, results in at least an appearance of partiality. For this reason, judicial testimony before legislative committees should be limited to subjects concerning the legal system and the administration of justice. If the law, other than subjects concerning the legal system or the administration of justice, is to be discussed, the subject at issue must not be one which is likely to result in litigation. I am sure that you will agree that the subject in question does not meet that criterion.

Very truly yours,

  
Warren W. Matthews  
Chief Justice

cc: Representative Max Gruenberg  
Representative Dave Donley  
Representative Bill Hudson  
Representative Randy Phillips  
Representative Alyce Hanley

WWM:pz

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 10, 1988

SUBJECT: Criminal penalties related to marijuana  
(Work order 5-2053)

TO: Representative Johnny Ellis

FROM: Jack Chenoweth  
Legislative Counsel

Marijuana, as your request notes, is classified as a schedule VIA controlled substance. (AS 11.71.190(b)).

The following sets out the criminal penalties involving possession or sale of marijuana where the possession or sale of that controlled substance is specified.

\*

I. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE THIRD DEGREE (AS 11.71.030):

The following constitutes misconduct involving a controlled substance in the third degree:

-- The delivery of any amount of a schedule VIA controlled substance to a person under 19 years of age by a person who is at least three years younger than the person delivering the substance.

Misconduct involving a controlled substance in the third degree is a class B felony. Misconduct involving a controlled substance in the third degree is punishable by

-- a fine of not more than \$50,000 (AS 12.55.-035(b)(2)); and

-- imprisonment for not more than ten years (AS 12.55.-125(d)).

\*

II. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FOURTH DEGREE (AS 11.71.040):

Each of the following constitutes misconduct involving a controlled substance in the fourth degree:

-- The manufacture or delivery, or possession with the intent to manufacture or deliver, of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance;

-- The possession of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more containing a schedule VIA controlled substance;

-- The possession by a person who is 18 years of age or older of a schedule VIA controlled substance within the grounds of or on a parking lot immediately adjacent to a public or private preschool, elementary, junior high, or secondary school.

Misconduct involving a controlled substance in the fourth degree is a class C felony. Misconduct involving a controlled substance in the fourth degree is punishable by

-- a fine of not more than \$50,000 (AS 12.55.-035(b)(2)); and

-- imprisonment for a term of not more than five years (AS 12.55.125(e)).

\*

III. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE (AS 11.71.050):

Each of the following constitutes misconduct involving a controlled substance in the fifth degree:

-- The manufacture or delivery, or possession with the intent to manufacture or deliver, of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-half ounce or more containing a schedule VIA controlled substance;

-- The manufacture or delivery, or possession with the intent to manufacture or deliver, of one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one-half ounce containing a schedule VIA controlled substance, for remuneration;

-- The possession of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-half pound or more containing a schedule VIA controlled substance.

Misconduct involving a controlled substance in the fifth degree is a class A misdemeanor. Misconduct involving a controlled substance in the fifth degree is punishable by

-- a fine of not more than \$5,000 (AS 12.55.035(b)(3));  
and

-- imprisonment for not more than one year (AS 12.55.-135(a)).

\*

#### IV. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE SIXTH DEGREE (AS 11.71.060):

Each of the following constitutes misconduct involving a controlled substance in the sixth degree:

-- The use or display of any amount of a schedule VIA controlled substance, or the possession of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance, on a public street or sidewalk, on the premises of a public carrier or business establishment, or in any other public place;

-- The knowing possession of any amount of a schedule VIA controlled substance within the immediate control of that person while operating a propelled vehicle;

-- The possession by a person under 19 years of age of one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than four ounces containing a schedule VIA controlled substance;

-- The possession of one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance.

Misconduct involving a controlled substance in the sixth degree is a class B misdemeanor. Misconduct involving a controlled substance in the sixth degree is punishable by

-- a fine of not more than \$1,000 (AS 12.55.035(b)(4));  
and

-- imprisonment for a term of not more than 90 days (AS 12.55.135(b)).

\*

V. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE (AS 11.71.070):

Each of the following constitutes misconduct involving a controlled substance in the seventh degree:

-- The manufacture or delivery, or possession with the intent to manufacture or deliver, of one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one-half ounce of a schedule VIA controlled substance;

-- The possession of one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one ounce containing a schedule VIA controlled substance on a public street or sidewalk or on the premises of a public carrier or business establishment or in any other public place.

Misconduct involving a controlled substance in the seventh degree is a violation. Misconduct involving a controlled substance is punishable only by imposition of a fine, as authorized in AS 12.55, but the fine may not exceed \$100.

\*

In addition to the preceding, operating a motor vehicle, aircraft, or watercraft while under the influence of a controlled substance, including marijuana, is a class A misdemeanor. AS 28.35.030(a)(1); AS 28.35.030(b).

JBC:bb  
b3/097

RECEIVED FEB 16 1988

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 2800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1988

SUBJECT:            Constitutionality of "criminalizing"  
                      possession of marijuana (CSSB 32 (HESS))

TO:                 Representative Max Gruenberg

FROM:              Jack Chenoweth  
                      Legislative Council

You have asked whether the legislature may constitutionally make possession of any amount of marijuana illegal.

In a memorandum accompanying the original version of SB 32, the drafter, Keith Levy, wrote:

. . . This draft makes the possession of any amount of marijuana illegal. The proposed amendment to AS 11.71.060(a) specifically concerns possession of any amount less than one-half pound and makes it a misdemeanor.

This provision conflicts with the right to privacy under Art. 1, sec. 22 of the Alaska Constitution. In the case of Ravin v. State, 537 P.2d 494 [(1975)], the Alaska Supreme Court ruled that this right to privacy within the home prevailed over an inadequately compelling governmental interest in preventing marijuana possession and use by adults in the home. The policy arguments made in the bill are not, in my opinion, sufficiently weighty to overcome the constitutional protection recognized in the Ravin decision.

Since then, as you know, the findings provisions of the original bill have been amended and extended and incorporated into the version that is the Senate HESS Committee Substitute. The committee substitute makes no change in the operative text of the bill.

It is the constitutionality of that committee substitute as to which you inquire.

\*

In Ravin, the court acknowledged that the right of privacy is limited by the "legitimate needs of the State to protect the health and safety of its citizens." 537 P.2d 494, at 501. Responding to the evidence marshalled by the state in defense of its prosecution, the court determined that

. . . It appears that effects of marijuana on the individual are not serious enough to justify widespread concern, at least as compared with the far more dangerous effects of alcohol, barbiturates, and amphetamines. Moreover, the current patterns of use in the United States are not such as would warrant concern that in the future consumption patterns are likely to change.

Ravin, supra., at 509 - 510. The court did not close the door to debate or to the adoption of legislation that would survive constitutional scrutiny:

Research is continuing extensively. Scientific doubts persist, however, and that fact has significance for our application of the law. It is a long-standing rule of law that statutes designed to protect the public health will receive a liberal construction. . . . There is a presumption in favor of public health measures; when there is substantial doubt as to the safety of a given substance or situation for the public health, controls intended to obviate the danger will usually be upheld.

Ravin, supra., at 510. But, the court concluded:

. . . no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown. The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will

in fact suffer if the controls are not applied.  
[Emphasis added]

Ravin, supra. at 511.

In an inquiry as to constitutionality of legislation setting controls on possession of marijuana in the home, the burden is on the state to "demonstrate a need based on proof that the public health or welfare will in fact suffer if controls are not applied."

Under scrutiny, would CSSB 32 (HESS) meet the burden laid down in the Ravin decision?

Assuming CSSB 32 (HESS) is passed and becomes law, in a prosecution under it, applying the Ravin test, a court is not constrained to look only at the legislative findings to ascertain whether there is "demonstrated . . . need based on proof" that public health or welfare will be affected by the criminal re-regulation of the possession of the plant. The court may also conduct an analysis beyond the findings cited by the legislature in its consideration of the bill, Gray v. State, 525 P.2d 524 (Alaska, 1974), and rely on other relevant evidence and arguments "including matters which have never been presented to or considered by the legislature in its deliberations." Gray, supra., note 15 at 528. 1/

What is in balance is, as the court has said

. . . the general proposition that the authority of the state to exert control over the individual extends only to activities of the individual which affect others or the public at large as it relates to matters of public health or safety, or to provide for the general welfare. . . . The state cannot impose its own notions of morality, propriety, or fashion on individuals when the public has no legitimate interest in the affairs of those individuals. . . .

Ravin, supra., at 509.

The "findings"--bill section 1 identifies them as such--purport to set out factual conclusions from which the legislature has decided to proceed to "recriminalize" marijuana. 2/ As I've reviewed the recitations, I've found that many of the statements are general and speculation, or

Representative Max Gruenberg  
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have relatively little to do with concerns of public health, safety, and welfare that affect significant numbers of Alaskans. 3/

More to the point, however, is my belief that the Senate committee did not establish a record in hearings that would verify the recitations set out in the findings sufficient to meet the Ravin burden. A comparative examination of the findings to the court's analysis in Ravin leads me to conclude that much of the material set out as findings is little more than conclusions that have already received some attention by the court in the initial decision. 4/ Virtually all of the findings in section 1(a) of the bill have a counterpart in the extended discussion of the physiological and psychological effects of the drug undertaken by the court in its decision. Almost everything that the Senate committee substitute reports as "fact" or offers as conclusion is addressed in the earlier opinion. (So, for example, where the committee substitute asserts that the "THC content of commonly obtainable marijuana has increased from less than one percent 10 years ago to as high as 10 percent today" (finding 6), the Ravin decision seemingly anticipates the finding by reporting--and subsequently dismissing--the claim that "most of the [physiological] damage suggested by [the] studies [reviewed and relied on by the court] comes in the context of intensive use of concentrated forms of THC." Ravin, supra., at 506, Emphasis added. And, where the committee substitute recites that "other psychological reactions to marijuana include loss of memory, anxiety, panic, paranoia, psychosis, psychological dependence, and impairment in thinking, reading comprehension, verbal and arithmetic problem solving, and perception of distance and time" (finding 12), the litany appears to have been taken almost intact from similar observations made in the Ravin decision at pp. 506-507.)

Recitations of findings unsupported by significant evidence--or at least significant new evidence--makes it less likely that the court would sustain the enactment against a constitutional challenge.

Even at that, the emphasis in section 1(a) of the committee substitute is overwhelmingly on the purported effect of marijuana on the individual. By itself, that is probably not enough, as Keith Levy has claimed, to meet the test of Ravin, i.e., that the record show that the legislature's

Representative Max Gruenberg

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deliberations found "a close and substantial relationship of the intrusion to a legitimate governmental interest." The opinion makes it quite clear that government may not "simply decide what is in a person's best interest and then compel it." The burden, the court has made clear, is on the government to demonstrate that "the public health or welfare will in fact suffer if the controls are not applied."

I am not prepared to speculate on how the court would rule on this bill. In candor, however, like Keith Levy, I have serious reservations. This office has previously addressed the question of the constitutionality of this and similar legislation (HB 698, 13th Legislature; SB 163, 14th Legislature), and our conclusions have been consistent. Now, despite the Senate HESS committee's revision of the findings as it produced the committee substitute, I cannot conclude that the HESS committee substitute meets the Ravin tests. Suffice to say that, without reviewing the specific testimony that the senate committee received last year as it considered the bill, it should be clear that bill findings that are unsupported by rigorous examination by the legislative committee that authored them would surely be insufficient to meet the burden of the Ravin test. But even if the underlying evidence is sufficient in that regard, it is far from clear to me that the evidence offered compels the conclusion the state may now act to prohibit possession of marijuana for a reason related to the public health or public welfare.

Thank you for the opportunity to comment.

1/ In its decision, the Ravin court wrestled with the adequacy of the record. In the absence of a legislative record, it undertook its own examination, an extensive review of pertinent evidence that, in the decision, the court summarized as follows:

[W]e conclude that citizens of the State of Alaska have a basic right to privacy in their homes under Alaska's constitution. This right to privacy would encompass the possession and ingestion of substances such as marijuana in a purely personal, non-commercial context in the home unless the state can meet its substantial burden and show that proscription of possession of marijuana in the home is supportable by achievement of a legitimate state interest.

This leads us to the second facet of our inquiry, namely, whether the State has demonstrated sufficient justification for the prohibition of possession of marijuana in general in the interest of public welfare; and further, whether the State has met the greater burden of showing a close and substantial relationship between the public welfare and control of ingestion or possession of marijuana in the home for person use.

The evidence which was presented at the hearing before the district court consisted primarily of several expert witnesses familiar with various medical and social aspects of marijuana use. Numerous written reports and books were also introduced into evidence.

. . .

The justification offered by the State to uphold AS 17.12.010 are generally that marijuana is a psychoactive drug; that it is not a harmless substance; that heavy use has concomitant risk; that it is capable of precipitating a psychotic reaction in at least individuals who are predisposed towards such reaction; and that its use adversely affects the user's ability to operate an automobile. The State relies upon a number of medical researchers who have raised questions as to the substance's effect on the body's immune system, on chromosomal structure, and on the functioning of the brain. On the other hand, in almost

every instance of reports of potential danger arising from marijuana use, reports can be found reaching contradictory results. It appears that there is no firm evidence that marijuana, as presently used in this country, is generally a danger to the user or to others. But neither is there conclusive evidence to the effect that it is harmless. . . .

Possibly implicit in the State's catalogue of possible dangers of marijuana use is the assumption that the State has the authority to protect the individual from his own folly, that is, that the State can control activities which present no harm to anyone except those enjoying them. Although some courts have found the "public interest" to be broad enough to justify protecting the individual against himself, most have found inherent limitations on the police power of the state. An apposite example is the litigation regarding the constitutionality of laws requiring motorcyclists to wear helmets. Most of the courts addressing the issue, including this one, have resolved it by finding a connection between the helmet requirement and the safety of other motorists, but a significant number of courts have explicitly rejected such restrictive measures as beyond the police power of the state because they do not benefit the public. Typical of the logic of these latter cases is the dissent of Justice Abe in State v. Lee, [465 P2d. 573 (1975)] in which the Hawaii Supreme Court upheld a motorcycle helmet requirement despite finding no clear link between lack of the requirement by the motorcyclist and injury to others. The court reasoned that where a person's conduct is so reckless and the resulting injury and death are so widespread as to be of concern to the public, then the conduct affects the public interest and is within the scope of the police power. Justice Abe dissented, citing a general right to be left alone or liberty to do as you please. There has to be a genuine harm to others, he wrote, to justify such controls; a state cannot simply decide what is in a person's best interest and compel it.

Ravin, supra., at 504-509. (Footnotes omitted.)

After finding, on the basis of the evidence offered and considered, a "need for control of drivers under the influence of marijuana," the court concluded:

[G]iven the relative insignificance of marijuana consumption as a health problem in our society at present, we do not believe that the potential harm generated by drivers under the influence of marijuana, standing alone, creates a close and substantial relationship between the public welfare and control of ingestion of marijuana or possession of it in the home for personal use. Thus we conclude that no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown. The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.

Ravin, supra., at 511 (Footnotes omitted.)

2/ The language and content of the proposed findings that support subsection 1(a) of CSSB 32 appear to derive from related material and proposed findings incorporated into CSHB 698 of the 13th Legislature. A document in our records recites that the findings used in CSHB 698 "are taken from the testimony in several [House] Judiciary Committee hearings, including (but not limited to)" testimony or material submitted by

Dr. Reese T. Jones, clinical psychiatrist,  
University of California, San Francisco; and  
Dr. Gabriel G. Nahas, Columbia University, New  
York City, re: the psychological effects and the  
biological effects, respectively, of the use of  
marijuana.

There is an additional sheet reciting other proposed conclusions, some of which appear to have been incorporated into the findings in the earlier bill (and carried forward into this bill), but the source of the information is not noted or disclosed.

3/ The tendency of the findings set out in section 1 of CSSB 32 to generalize and to speculate as to the personal and public health consequences of use of small amounts of

the drug may be illustrated by the "tentativeness" of some of the principal findings set out in subsection (a) of the committee substitute:

-- the findings recite the buildup of tetrahydrocannabinol (THC) in the tissues of the body, but conclude only that "repeated administration of even small doses may lead to an accumulation" of the drug at cumulatively higher levels (finding 3) and that the buildup "may result in loss of sleep, appetite, and initiative . . ." (finding 4);

-- the findings note that "marijuana may cause schizophrenia, illusions, and hallucinations . . ." (finding 8); that use of the drug "may result in deformed or undersized offspring" (finding 10); and that its use "may [hasten the onset of] lung cancer" (finding 9).

That the findings rely on national studies and have little direct relevance to data based on studies involving or affecting Alaskans seems self-evident.

As to the assertions made in subsection (b) of the committee substitute, the subsection in which the legislature makes direct reference to the public health and welfare of the people of the state, I question whether the committee has a basis for the proposed conclusions. There is nothing in the drafting file to indicate the source of these specific statistics and conclusions.

4/ In its opinion, the Ravin court reported at length on its conclusions concerning the physiological and psychological effects of the use of the drug:

The short-term physiological effects are relatively undisputed. An immediate slight increase in the pulse, decrease in salivation, and a slight reddening of the eyes are usually noted. There is also impairment of psychomotor control. These effects generally end within two to three hours of the end of smoking.

Long-term physiological effects raise more controversy among the experts. The National Commission on Marihuana and Drug Abuse reported that among users "no significant physical, biochemical, or mental abnormalities could be attributed solely to their marijuana smoking." Certain researchers have pointed to possible deleterious effects on the body's immune

defenses, on the chromosomal structures of users, and on testosterone levels in the body. The methodology of certain of these studies has been extensively criticized by other qualified medical scientists, however. These studies cannot be ignored. It should be noted that most of the damage suggested by these studies becomes in the context of intensive use of concentrated forms of THC. It appears that the use of marijuana, as it is presently used in the United States today, does not constitute a public health problem of any significant dimensions. It is, for instance, far more innocuous in terms of physiological and social damage than alcohol or tobacco. But the studies suggesting dangers in intensive cannabis use do raise valid doubts which cannot be dismissed or discounted.

The immediate psychological effects of marijuana are typically a mild euphoria and a relaxed feeling of well-being. The user may feel a heightened sensitivity to taste and to visual and aural sensations, and his perception of time intervals may be distorted. A desire to become high can lead to a greater high; fear of becoming high or general nervousness can cause the user to fail to experience any high at all. In rare cases, excessive nervousness or fear of the drug can even precipitate a panic reaction. Occasionally a user will experience a negative reaction such as anxiety or depression, particularly when he takes in more of the substance than needed to achieve the desired high. However, in smoking marijuana, the user can selftitrate, or control the amount taken in, since the effect builds up gradually.

Additional short-term effects are an impairment of immediate-past-memory facility and impairment in performing psycho-motor tasks. Experienced users seem less impaired in this regard than naive users.

In extreme rare instances, use of marijuana has been known to precipitate psychotic episodes; however, the consensus of the experts seems to be that the potential for precipitating psychotic episodes exists only for a limited number of prepsychotic persons who could be pushed into psychosis by any number of drug or non-drug-related influences.

There is considerable debate as to the long-term effects of marijuana on mental functioning. Certain researchers cite evidence of an "amotivational syndrome" among long-term heavy cannabis users. However, the main examples of this effect are users in societies where large segments of the population exhibit such traits as social withdrawal and passivity even without drug use. The National Commission concludes that long-time heavy users do not deviate significantly from their social peers in terms of mental functioning, at least to any extent attributable to marijuana use.

Most authorities have accepted the theory that marijuana users develop a "reverse tolerance", that is, that a moderate user needs less and less marijuana over time to achieve a high. Recent research indicates that this may be true only up to a point, and that beyond a certain intensity of use a true tolerance begins to develop. If true, this may be relevant regarding only heavy use of concentrated forms of cannabis, since marijuana is physically addicting. It also rejected the notion that marijuana as used in the United States today presents a significant risk of causing psychological dependency in the user. Rather, the experimental or intermittent user develops little or no psychological dependency. Lengthy use on a regular basis does present a risk of such dependency and of subsequent heavier use, and strong psychological dependence is characteristic of heavy users in other countries. This pattern of use is rare in the United State today, however.

While there is no confirmed report of a human ever having died from an overdose of cannabis, the toxic levels of THC have been determined from tests on animals. The lethal dose for marijuana is approximately 40,000 times the dose needed to achieve intoxication. The equivalent ratio of intoxicating to lethal doses for alcohol is 4/10 and for barbiturates 3/50.

Ravin, supra., at 506-508 (Footnotes omitted).

I suspect that one key element in any judicial analysis would be the link between adult possession and use of marijuana and the impact of that use on, and opportunity for

use by, adolescents living in the same home. In Ravin, citing a 1971 article in the American Medical Association Journal, the court related that "24% of Anchorage school children in grades six through twelve had used marijuana, as had 46% in grades eleven and twelve." Ravin, supra., at 505. In CSSB 32, the legislature finds that "the daily use of marijuana in the state has increased to as high as four percent among the general population and as high as six percent among secondary school students" (finding 2). The analysis prompts other, unanswered, questions. Are the figures cited for the Anchorage School District representative of the state as a whole? As to the purported increased usage of the drug on a regular basis, claimed now to be six percent among secondary school students, is that an increase when compared to patterns of use reported in the 1971 report of the Journal of the American Medical Association? And--most significantly in a bill that attempts to regulate possession of marijuana by adults--do public health officials and educators and others who might be familiar with the welfare of secondary school students provide testimony of the serious deleterious effects of either their use of marijuana or of their regular exposure to its use by adults?

JBC:bb  
wkb2/096

# STATE OF ALASKA THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS	April 13, 1988	8:30 AM
H HESS	April 13, 1988	7.00 p.m
H HESS	April 14, 1988	8:30 Am
H HESS	April 15, 1988	8:30 Am

FISCAL NOTE

REQUEST:

Revision Date: April 8, 1988  
Title: "An Act relating to marijuana..."

Agency Affected: Department of Law  
BRU: Prosecution

Sponsor: Senate HESS  
Requestor: House HESS

Components: Third District, Fourth District, Criminal Appeals and Special Prosecution, and Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		160.9	165.7	170.7	175.8	181.1
TRAVEL		5.4	5.6	5.8	6.0	6.2
CONTRACTUAL		53.7	36.5	11.9	12.3	12.7
SUPPLIES		12.6	9.3	9.6	9.9	10.2
EQUIPMENT		4.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		237.1	217.1	198.0	204.0	210.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		237.1	217.1	198.0	204.0	210.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
Division: Administrative Services Date: April 8, 1988  
Approved by Commissioner: Richard I. Pegues FOR  
Agency: Department of Law Date: April 8, 1988

Distribution (by preparer):

- Legislative Finance
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- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32 (HESS)

The committee substitute for SB 32 makes changes in the legislative findings (Section 1); however, no substantive changes have been made in Section 2, which makes it a Class B misdemeanor to possess or use small amounts of marijuana. Consequently, the fiscal impacts noted in the Department of Law's fiscal note for SB 32, which was originally submitted on March 11, 1987, remain essentially the same. Our revised analysis is herewith attached.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32 (HESS)

CSSB 32 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 CSSB 32 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 CSSB 32 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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32 (HESS)

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 and the Supreme Court.

## 2. New Criminal Cases

Although some of the conduct included within the scope of SB 32 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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32 (HESS)

a misdemeanor crime. It is difficult to accurately predict in advance the impact which the passage of CSSB 32 will have on the criminal justice system.

In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that the new law could potentially result in "thousands" of new misdemeanor cases a year. The police now doubt this but, nonetheless, a large 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 CSSB 32 becomes law, police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who we may expect to vigorously resist having a criminal record. Class B misdemeanors, as opposed to the violations, entitle a defendant to a jury trial. In every trial there will have to be an expert to testify as to the substance being marijuana.

Prosecutors generally predict a lesser number of new potential criminal cases under CSSB 32 than the "thousands" that were once predicted. Once the public becomes aware of the new law, some people are likely to become 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 still 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 two Attorney III positions in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

This fiscal note reflects the fact that the pretrial diversion program was entirely eliminated in FY 88. Anticipating that more than fifty per cent of defendants would qualify for diversion, we must prepare for a gross increase in the number of cases that will go to trial.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSS§ 32 (HESS)

### 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 \$18,000 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, the Office of Public Advocacy, and corrections.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32

## Fiscal Analysis

### 1. Defending the New Law

Admin. & Support Component/Proce. - 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 89 and FY 90, to cover both trials and appeals.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSS# 32

Fiscal Analysis - (cont'd)

2. New Criminal Cases

Third Judicial District - Anchorage

	<u>Atty III</u> <u>(PFT)</u>	<u>Atty III</u> <u>(PFT)</u>	<u>Total</u>
Personal Services	62.6	62.6	125.2
Travel - Witness travel subsistence, atty. travel	1.8	1.8	3.6
Contractual Services			
office commo. equip. repairs	2.4	2.4	4.8
copy - postage	1.2	1.2	<u>2.4</u>
			7.2
Commodities - Ongoing			
office consumables	1.8	1.8	3.6
Law library	1.2	1.2	2.4
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			8.4
Equipment - one time			
New position equipment	1.5	1.5	3.0
	<hr/>	<hr/>	<hr/>
	73.7	73.7	147.4

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	<u>Atty. III (PPT)</u>	<u>Total</u>
Personal Services	35.7	35.7
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
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 style="width: 10%; margin: 0 auto;"/>
		46.8

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32

Fiscal Analysis - (cont'd)

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.	18.0 18.0
	18.0

Summary of Expenses

	<u>Defending the new law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		160.9		160.9
Travel		5.4		5.4
Contractual	24.9	10.8	18.0	53.7
Commodities		12.6		12.6
Equipment		4.5		4.5
	24.9	194.2	18.0	237.1

Costs beyond FY 89 include a 3 per cent inflation factor, less one-time items. The costs for defending the new law will occur in both FY 89 and FY 90 and they will be eliminated thereafter.

Position Title <b>Attorney III</b>		No. of Positions <b>2</b>	Range/Step <b>22A</b>	Barg. Unit <b>PX</b>	
Time Status <b>PFT</b>	Staff Months <b>24</b>	Location <b>EBA - Anchorage</b>		Election District <b>8</b>	
Type of Expenditure		Justification			
		<p>These two full-time attorney positions are required at Anchorage 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 this bill. These positions will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses, allocation of the positions to the Attorney III level is appropriate.</p>			
<b>1</b>	<b>2</b>				<b>3</b>
Salary	98,380				
Benefits	26,834				
Premium Pay					
Other					
Total Personal Services					125,214
Travel					3,600
Contractual					7,200
Commodities					8,400
Equipment		3,000			
Other					
Total Cost		147,414			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		147,414		
GF Program Receipts	1005				
Other					

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Third Judicial District

Page 1 of 2  
 Revised Date 4/08/88

**FY 89**

Position Title <b>Attorney III</b>		No. of Positions 1	Range/Step 22A	Barg. Unit PX	
Time Status PPT	Staff Months 12	Location JBA - Fairbanks		Election District 16	
Type of Expenditure		Justification			
		<p>This permanent part-time position at Fairbanks 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 this bill. 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.</p>			
Amount					
1	2				3
Salary	28,128				
Benefits	7,576				
Premium Pay					
Other					
Total Personal Services					35,704
Travel					1,800
Contractual					3,600
Commodities		4,200			
Equipment		1,500			
Other					
Total Cost		46,804			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	46,804			
GF Program Receipts	1005				
Other					

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Fourth Judicial District

Page 2 of 2  
 Revised Date \_\_\_\_\_

**FY 89**

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Tide: "An Act relating to Marijuana"  
Sponsor: Senator Fischer  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_  
Components: Statewide Programs

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	238.0	238.0	238.0	238.0	238.0	238.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	238.0	238.0	238.0	238.0	238.0	238.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>	<b>238.0</b>

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Due to an increase in the number of drug enforcement officers, through a federal grant program, this legislation will have an effect on the Department of Corrections. This fiscal note reflects an increase in the number of community residential beds. It reflects increases of 10 beds in Anchorage, 5 in Fairbanks and 2 in Juneau.

Prepared by: Susan F. Knighton, Director Phone: 465-3376  
Division: Administrative Services Date: 3-2-88

Approved by Commissioner: Susan Humphrey-Barnett Date: 3-2-88  
Agency: Department of Corrections

**Distribution (by preparer):**

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

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
 Title: "An Act relating to the  
recriminalization of marijuana.." BRU: Alaska State Troopers  
 Sponsor: Sen. Fischer Components: Criminal Investigation  
 Requestor: Senate Rules Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JMR  
2/19/88

Prepared by: Francis C. Allan *G.C.A.*  
 Division: Alaska State Troopers

Phone: 269-5691  
 Date: 1/29/88

Approved by Commissioner: Arthur English *A.H.*  
 Agency: Public Safety

Date: 1/29/88

Distribution: (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to marijuana" Agency Affected: Dept. of Administration  
BRU: Public Defender Agency

Sponsor: Fiscner and Falke  
Requester: Judiciary and Finance Components: Third Judicial District

EXPENDITURES REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		140.4	146.0	151.8	157.9	164.2
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		27.5	10.4	10.8	11.2	11.6
SUPPLIES		2.0	2.1	2.2	2.3	2.4
EQUIPMENT		3.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		172.9	158.5	164.8	171.4	178.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		172.9	158.5	164.8	171.4	178.2
FEDERAL FUNDS						
OTHER						
TOTAL		172.9	158.5	164.8	171.4	178.2

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Dana Fabe, Public Defender  
Division: Public Defender Agency

Phone: 279-7541  
Date: January 21, 1988

Approved by Commissioner: John Andrews  
Agency: Department of Administration

Date: 2/1/88

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS SB 32

This bill would re-institute the prosecution of offenses relating to the possession of marijuana in any amount or location and would result in a significant number of new cases for the Department of Law, the Public Defender Agency and the Office of Public Advocacy. The Department of Law is requesting 2.5 new attorney positions while the Public Defender Agency is requesting an Attorney III in Anchorage and an Attorney III in Fairbanks for a total of 173.4.

BUDGET ANALYSIS

100	Attorney III - Anchorage	66.0	
	Attorney III - Fairbanks	74.4	140.4
200	Travel		-0-
300	Contractual - Space, phone, etc.	10.0	
	Litigation, one time	17.5	27.5
400	Supplies - Law Library, office, etc.		2.0
500	Equipment - One time		<u>3.0</u>
		TOTAL	172.9

Position Title <b>Attorney III</b>		No. of Positions <b>1</b>	Range/Step <b>22/A</b>	Barg. Unit <b>PX</b>																																							
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>92</b>																																							
<table border="1"> <thead> <tr> <th colspan="2">Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>49,140</td> <td></td> </tr> <tr> <td>Benefits</td> <td>16,334</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td colspan="2">Total Personal Services</td> <td>65,974</td> </tr> <tr> <td>Travel</td> <td></td> <td>-0-</td> </tr> <tr> <td>Contractual</td> <td></td> <td>22,500</td> </tr> <tr> <td>Commodities</td> <td></td> <td>1,000</td> </tr> <tr> <td>Equipment</td> <td></td> <td>1,500</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td colspan="2">Total Cost</td> <td>90,974</td> </tr> </tbody> </table>		Type of Expenditure		Amount	1	2	3	Salary	49,140		Benefits	16,334		Premium Pay			Other			Total Personal Services		65,974	Travel		-0-	Contractual		22,500	Commodities		1,000	Equipment		1,500	Other			Total Cost		90,974	Justification  This bill would result in a significant increase in criminal prosecutions as it would apply to any amount of marijuana in any location. The Public Defender Agency is requesting an Attorney III for Anchorage plus an additional 17.5 (one time) in contractual to litigate the constitutionality of this bill.		
Type of Expenditure		Amount																																									
1	2	3																																									
Salary	49,140																																										
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**Request For  
New Position**

Agency Department of Administration  
 BRU Public Defender Agency  
 Component Third Judicial District

Page 3 of 4  
 Revised Date 1/21/88

**FY 89**

Position Title <b>Attorney III</b>		No. of Positions <b>1</b>	Range/Step <b>22/A</b>	Barg. Unit <b>PX</b>																										
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>	Election District <b>94</b>																											
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Type of Expenditure	Amount																													
1	2																													
Salary	56,244																													
Benefits	18,129																													
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**Request For  
New Position**

Agency Department of Administration  
BRU Public Defender Agency  
Component Fourth Judicial District

Page 4 of 4  
Revised Date 1/21/88

**FY 89**

FISCAL NOTE

REQUEST:

Revision Date: 1/21/88  
Title: "An Act relating to marijuana;..."  
Sponsor: Fischer, Faiks  
Requestor: Judiciary, Finance

Agency Affected: Administration  
BRU: Office of Public Advocacy  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	98.2	102.3	106.4	110.7	115.1
TRAVEL			0	0	0	0
CONTRACTUAL		60.0	62.4	64.9	67.5	70.2
SUPPLIES		2.0	2.8	2.9	3.0	3.1
EQUIPMENT		9.3	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	169.7	167.5	174.2	181.2	188.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	169.7	167.5	174.2	181.2	188.4
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	169.7	167.5	174.2	181.2	188.4

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: 1/20/88

Approved by Commissioner: John Andrews  
Agency: Department of Administration

Date: 2/1/88

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 32 (HESS)

This bill will recriminalize the use or possession of marijuana at any location and would result in a significant increase in the number of prosecutions for such offenses.

The Department of Law has requested 2.5 attorney in Anchorage and Fairbanks in order to enforce this statute. The constitutionality of the statute, which appears to directly conflict with the Supreme Court's 1975 holding in Raven v. State, will undoubtedly be tested in extensive trial and appellate court proceedings.

The Office of Public Advocacy requests one new Attorney III position for Anchorage -- where the greatest number of prosecutions is likely to arise -- and \$60,000 in contractual funds to pay for representation in other areas and for expert witness fees necessary for trial proceedings.

## Personal Services

### Anchorage

Attorney III

Salary & Benefits = 65,977 \$ 66.0

Legal Secretary I

Salary & Benefits = 32,363 32.4

Subtotal Personal Services 98.4

## Contractual

Contract attorneys in rural areas and expert witnesses. 60.0

## Supplies

Stationary and library supplies for two new positions. 2.0

## Equipment

Office furniture and equipment for one professional position at \$2,429 and one secretary position at \$6,838 = \$9,267 9.3

TOTAL \$169.7

Position Title <b>Attorney III</b>		No. of Positions	Range/Step <b>22/A</b>	Barg. Unit <b>X</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>EBA-Anchorage</b>		Election District <b>8</b>
Type of Expenditure		Amount		
1	2	3		
Salary	49,140			
Benefits	16,837			
Premium Pay				
Other				
Total Personal Services		65,977		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		65,977		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	65,977		
GF Program receipts	1005			
Other				
Justification				
<p>The Anchorage OPA office presently has 3 attorney positions devoted to criminal defense. These attorneys are also handling several major cases outside the Anchorage area as staff coverage and travel is more cost effective than contracting major cases to private attorneys in rural areas. Current caseloads indicate that these three attorneys cannot absorb the additional cases which would result from this legislation. It is necessary that an additional attorney be added to the Anchorage staff to cover the resultant increased caseload.</p>				

**Request For  
New Position**

Agency Administration  
 BRU Office of Public Advocacy  
 Component \_\_\_\_\_

Page 3 of 4  
 Revised Date \_\_\_\_\_

**FY 89**

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10/A</b>	Barg. Unit <b>G</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>EBA-Anchorage</b>		Election District <b>8</b>
Justification				
<p>The Anchorage OPA office presently has 3 legal secretary positions providing clerical support to 12 professional positions, 2 vista volunteers, and the VGAL program. The addition of an attorney with a full caseload necessitates the addition of a legal secretary. The present ratio of 4 professionals to each secretary is the maximum that each secretary can handle. The additional workload created by an additional attorney carrying a full caseload cannot be absorbed by the present secretarial staff.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	22,020			
Benefits	10,343			
Premium Pay				
Other				
Total Personal Services		32,363		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		32,363		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	32,363		
GF Program Receipts	1005			
Other				

**Request For  
New Position**

Agency Administration  
 BRU Office of Public Advocacy  
 Component \_\_\_\_\_

Page 4 of 4  
 Revised Date \_\_\_\_\_

**FY 89**

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 32  
Publish Date:

REQUEST:

Revision Date:  
Title: An act relating to marijuana

Agency Affected: Alaska Court System  
BRU: Trial Courts

Sponsor: Fischer  
Requestor: Senate Judiciary

Components:

<u>EXPENDITURES/REVENUES:</u>		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
Personal Services	. . . .	143.6	143.6	143.6	143.6	143.6
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	11.5	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	155.1	143.6	143.6	143.6	143.6
CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
REVENUE	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

<u>FUNDING:</u>		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
General Funds	0.0	155.1	143.6	143.6	143.6	143.6
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	155.1	143.6	143.6	143.6	143.6

<u>POSITIONS:</u>						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Full-time	. . . .	4.0	4.0	4.0	4.0	4.0
Part-time	. . . .	1.0	1.0	1.0	1.0	1.0
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Karla Forsythe, General Counsel  
Division: Alaska Court System  
Phone: 264-8228  
Date: 4-23-87

Approved by: *Stephanie J. Cole*  
Stephanie J. Cole, Deputy Director  
Agency: Alaska Court System  
Date: 4-23-87

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management & Budget
  - Affected Agency(ies)
  - Senate Secretary

ALASKA COURT SYSTEM  
SB 32 - Fiscal Analysis

The Court System's fiscal note is based on the assumption that this bill will be enforced if enacted into law. The fiscal note submitted by the Department of Law reports that enforcement personnel anticipate several thousand new cases. This figure does not include prosecution resulting from municipal enforcement. Municipal police will generate a significant volume of cases for the courts, since they are responsible for enforcement in Alaska's urban communities and are more likely to arrest a large number of individuals than state troopers who focus on organized drug activity.

Using a conservative estimate of 2,000 cases annually, it appears that the increased caseload could be absorbed with existing judicial resources, but additional clerical support would be needed to process the high volume of paperwork attributable to these new criminal offenses which will be entering the criminal justice system.

ALASKA COURT SYSTEM  
SB 32 - Fiscal Analysis

Personal Services:

	Salary	Benefits	Total
2 - Court Clerk II, Range 10B, Anchorage, PFT - 12 months	\$45,672	\$16,580	\$62,252
1 - Court Clerk II, Range 10B, Fairbanks, PFT - 12 months	25,740	8,936	34,676
1 - Court Clerk II, Range 10B, Juneau, PFT - 12 months	22,836	8,290	31,126
1 - Court Clerk II, Range 10B, Ketchikan, PPT - 6 months	11,418	4,145	15,563 -----
		Total Personal Services	143,617

Equipment: (one-time cost)

Desk, chair, typewriter, and filing cabinet for each new position	11,540 -----
Total First-Year Cost	\$155,157 =====

FISCAL NOTE

REQUEST:

Revision Date: 3-31-88  
Title: An Act relating to marijuana; and providing for an effective date.  
Sponsor: Fischer and Faiks  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

N/A

Prepared by: Yvonne M. Chase, Director Phone: 465-3170  
Division: Division of Family and Youth Services Date: 04-11-88  
Approved by Commissioner: Myra M. Munson, Commissioner Date: 4-12-88  
Agency: Department of Health and Social Services

Distribution (by preparer):

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

MATERIALS AVAILABLE THROUGH THE HOUSE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE REGARDING SB 32

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Abel, Carol T. Letter to Ketchikan Police Department re analysis of cannabis sample, September 14, 1987, 1p.

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Biernson, George and Otto Moulton. "Synopsis of Marijuana." Drug Awareness Information Newsletter January 1988. Photocopy, 1p.

Clare, Anthony W. "Drugs Are Big Business." World Health June 1986:18-19. Photocopy, 2p.

Cohen, Sidney and Phyllis J. Lessin. Marijuana and Alcohol. Rockville, Maryland: The American Council for Drug Education. 1982. 27p.

\_\_\_\_\_. "Marijuana Smoking--A National Epidemic." American Lung Association of California reprint. 1981. Photocopy, 3p.

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Donnelly, Christine. "Hawaii's Pot Crop Flourishes Despite Official Crackdown." Juneau Empire March 10, 1988:2.

Economist. "American Survey: The Long, Losing Battle Against Drugs." The Economist March 5, 1988:23-24. Photocopy, 2p.

Fehr, Kevin O'Brien, et al. Cannabis: Adverse Effects on Health. Photocopy of article on State of California, Department of Justice letterhead, 1980. 13p.

Gettman, Jon B. Letter to Karla Hart re Senate Bill 32, March 17, 1988. 10p.

Gilkeson, Robert C. "The Emperor Smokes 'Pot'." Committees of Correspondence Inc. January 1987. Photocopy, 1p.

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\_\_\_\_\_. "Marijuana: Toxic to Cells." Drug Awareness Information Newsletter October 1987. Photocopy, 7p.

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#### Correspondence

Letters from various people, organizations, etc.

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## State Senate

### STUDIES & MATERIALS AVAILABLE IN SENATOR FISCHER'S OFFICE

<u>Study/Article/Publicatio</u>	<u>Date</u>	<u>Author</u>
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2) Presidential Newsconference Transcripts	Aug, '86	Ronald Reagan
3) Ravin Decision	1975	Judge Rabinowitz
4) Marijuana & Health	1982	New England Journal of Medicine
5) Clinical Toxicology of Cannabis	1983	Forest S. Tennant M.D.
6) Clinical Syndrome of Marijuana Dependence	Apr, '86	Forest S. Tennant M.D.
7) Attorney General Opinion State of Pennsylvania	Nov, '86	Roy Zimmerman
8) Legislator's Survey on Recriminalization	Oct, '86	Anchorage Times
9) ACLU Position Paper	Feb, '87	Alaska Chapter ACLU
10) Marijuana Study compilation of 19 different studies	nov, '85	Anchorage Crime Commission
10a) Aircraft Accident Report	Apr, '85	National Transportation Safety Board
b) Marijuana; A Headmaster's Perspective	Jun, '80	Various Canadian School Principals
c) A Whole New Ball Game	Mar, '82	Robert Dupont, M.D.
d) Death On the Highways	1981	Peggy Mann, from the Saturday Evening Post
e) Health Consequences of Marijuana	Mar, '80	William Pollin, M.D.

<u>Study/Article/Publication</u>	<u>Date</u>	<u>Author</u>
Anchorage Crime Commisior. Report cont.		
f) Retarding Reproduction	Feb., '83	Dr. Carol Smith An interview
g) Biological Effects of Marijuana	Mar, '84	Connie & Otto Moulton Drug Abuse Newsletter
h) Why I changed My Mind About Marijuna	?	Robert DuPont, M.D. Listen magazine
i) Marijuana Reconsidered	Feb, '84	Helen C. Jones
j) Our Most Dangerous Drug	1980 ?	Dr. Harvey Powelson
k) FDA's Marijuana Recommendations	Jun, '82	Food & Drug Admistration Docket # 82N-0182
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m) Respiratory Status of 74 Habitual Marijuana Smokers	Nov, '80	Donald Tashkin, M.D. & Bertrand J. Shapiro, M.D.
n) Narcotic Information Bulletin #1-80	1980	Many
o) Marijuana & the Brain	1980+	Robert J. Heath, M.D.
p) Marijuana & Reproduction	1982	Smith & Asch, Ph.D. & M.D. The American Council On Marijuana
q) The Marijuana Controversy	1981	Carlton E. Turner, Ph.D. The American Council On Marijuana
r) Marijuana: The Myth of Harmlessness Goes up in Smoke	?	Peggy Mann, Saturday Evening Post
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12) 10 Startling Facts About Marijuana & Brain Damage	1983	David Goodman, Ph.D.
13) Marijuana Update	Mar, '87	Donna J. Hymes, R.N.
14) Minutes of Anchorage Municipal Assembly on Marijuana Resolution	Dec.9, '86	Municipal Clerk

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15) Accomplishments of the National Campaign Against Drug Abuse	Sept, '84	The White House
16) Bibliography of Adverse Effects of Marijuana, over 100 articles	Apr, '85	Alaskanet/Dialog Computer Search, File= "Medline"
17) Marijuana & Health, 8th Annual Report to Congress	1980	National Institute on Drug Abuse
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20) Marijuana & Public Health An Analysis of 4 Major	Dec, '82	Sidney Cohen, M.D. Drug Abuse Newsletter
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Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

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JUNEAU, AK 99811  
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M E M O R A N D U M

TO: All LIO's

FROM: Rep. Niilo Koponen, Co-Chair  
Rep. Johnny Ellis, Co-Chair *JE*

DATE: April 6, 1988

SUBJECT: Hearings on CSSB 32 (HESS), Penalty for Possession of  
Marijuana

-----

The House Health, Education and Social Services Committee has scheduled hearings on CSSB 32 (HESS), penalty for possession of marijuana, on Wednesday, April 13th and Thursday, April 14th. Due to the amount of interest on this subject, we have had to structure the hearings in order for committee members to hear expert testimony on the pertinent issues contained in the bill. We have also scheduled an evening hearing for public testimony.

Attached is the proposed structure for the hearings. Please distribute this information to those who contact you regarding this issue.

April 6, 1988

Dr. Gilkeson  
2 Horatio St  
Apt. 10 P  
New York, NY 10014

Dear Dr. Gilkeson:

As Co-Chairs of the House HESS Committee we would sincerely appreciate your testimony on Senate Bill 32, copy enclosed. Currently in Alaska, the possession of less than four ounces of marijuana by adults for personal use in the home is legal. This bill would recriminalize such possession.

In 1975 the Alaska Supreme Court struck down an earlier law stating that the harm to the public health from marijuana did not outweigh the citizens' right to privacy which is firmly guaranteed under the Alaska Constitution; and thus allowed for the possession of small amounts by adults in the home. The Court did allow for the reconsideration of its decision based on new evidence of harmful public health effects of marijuana.

In the findings section of CSSB 32 (HESS), there is alleged new evidence of such harmful effects, and we are seeking expert testimony to substantiate, refute or comment on these findings. Your testimony in this regard would be of great assistance in our deliberations.

Enclosed is the proposed format for the hearings. Your testimony would be most appropriate on Thursday, April 14, beginning at 8:30 a.m. Alaska time, which is one hour earlier than Pacific time.

The Alaska Legislature has a very good teleconference network, so you could testify from your office or from any other phone. On the day of the hearing, at approximately 8:20 a.m. Alaska time, you should call the teleconference operator at (907) 562-2867. You are welcome to call collect.

We suggest that you open with a short statement; there will be other medical experts testifying also. We would appreciate if you could stay on line, listen to the other testimony and then comment and answer Committee members' questions when appropriate. Use of a speakerphone would make your call more comfortable. The hearing will not go beyond 10:00 a.m.

You may Jim Nordlund of our staff at (907) 465-3759 if you have any questions or need more information. We look forward to your testimony. Thank you.

Sincerely,

Rep. Niilo Koponen

Rep. Johnny Ellis

April 6, 1988

Dr. Arnold Trebach  
School of Justice  
American University  
Room 216, Ward Circle Bldg.  
Washington, D.C. 20016

Dear Dr. Trebach:

As Co-Chairs of the House HESS Committee we would sincerely appreciate your testimony on Senate Bill 32, copy enclosed. Currently in Alaska, the possession of less than four ounces of marijuana by adults for personal use in the home is legal. This bill would recriminalize such possession.

In 1975 the Alaska Supreme Court struck down an earlier law stating that the harm to the public health from marijuana did not outweigh the citizens' right to privacy which is firmly guaranteed under the Alaska Constitution; and thus allowed for the possession of small amounts by adults in the home.

Enclosed is the proposed format for the hearings. Your testimony would be most appropriate on Wednesday, April 13, beginning at 8:30 a.m. Alaska time, which is one hour earlier than Pacific time.

The Alaska Legislature has a very good teleconference network, so you could testify from your office or from any other phone. On the day of the hearing, at approximately 8:20 a.m. Alaska time, you should call the teleconference operator at (907) 562-2867. You are welcome to call collect.

We suggest that you open with a short statement as our time is extremely limited. If you have time, we would appreciate if you could stay on line, listen to the other testimony and then comment and answer Committee members' questions when appropriate. Use of a speakerphone would make your call more comfortable. The hearing will not go beyond 10:00 a.m.

You may Jim Nordlund of our staff at (907) 465-3759 if you have any questions or need more information. We look forward to your testimony. Thank you.

Sincerely,

Rep. Niilo Koponen

Rep. Johnny Ellis



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

FOUCHV  
JUNEAU, AK 99811  
465-3759

April 18, 1988

Dr. Harold Kalant  
University Toronto  
Department of Pharmacology  
Medical Sciences Building  
Toronto, Ont. CANADA M5S1A8

Dear Dr. Kalant:

Doctor Arnold Relman, Editor of The New England Journal of Medicine and chairman of the report Marijuana and Health, suggested that you may be available to comment on Senate Bill 32 which is presently in our committee. Since we have already had a hearing on the bill, oral testimony is no longer possible, but as a member of the committee that wrote Marijuana and Health, your written comments can still be of great assistance to our committee.

We have referred SB 32 to a subcommittee due to serious questions about the validity of the findings in the bill. Since many of the findings were derived from Marijuana and Health, your help would be extremely valuable in determining if the findings accurately represent your research. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes the findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State, allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The bill sponsor intended the findings section to be new evidence of marijuana's dangers.

Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony we heard last week, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from our Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. This would result in a waste of time and money by the legislature, and would serve to discredit the legislature in the eyes of the court. If we are to pass this bill, we need better documentation.

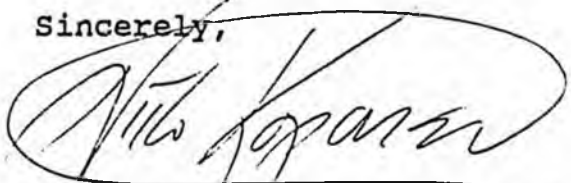
Enclosed is a copy of the bill, a copy of the Ravin decision and a copy of the legal opinion from Legislative Legal Counsel.

The legislature must adjourn by May 9th, so your response would be needed as soon as possible for the Committee to act this year. If such a quick response is not possible, we would still welcome your comments to be included as part of the official legislative record. A bill similar to this has been in the legislature for the past six legislative sessions, and could be introduced again.

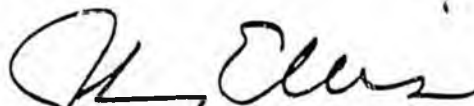
If you have any questions please contact us or Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V  
JUNEAU, AK 99811  
465-3759

April 18, 1988

Dr. Charles P. O'Brien  
Professor of Psychiatry  
University of Pennsylvania  
School of Medicine  
3400 Spruce St.  
Philadelphia, PA 19104

Dear Dr. O'Brien:

Doctor Arnold Relman, Editor of The New England Journal of Medicine and chairman of the report Marijuana and Health, suggested that you may be available to comment on Senate Bill 32 which is presently in our committee. Since we have already had a hearing on the bill, oral testimony is no longer possible, but as a member of the committee that wrote Marijuana and Health, your written comments can still be of great assistance to our committee.

We have referred SB 32 to a subcommittee due to serious questions about the validity of the findings in the bill. Since many of the findings were derived from Marijuana and Health, your help would be extremely valuable in determining if the findings accurately represent your research. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes the findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State, allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The bill sponsor intended the findings section to be new evidence of marijuana's dangers.

Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony we heard last week, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from our Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. This would result in a waste of time and money by the legislature, and would serve to discredit the legislature in the eyes of the court. If we are to pass this bill, we need better documentation.

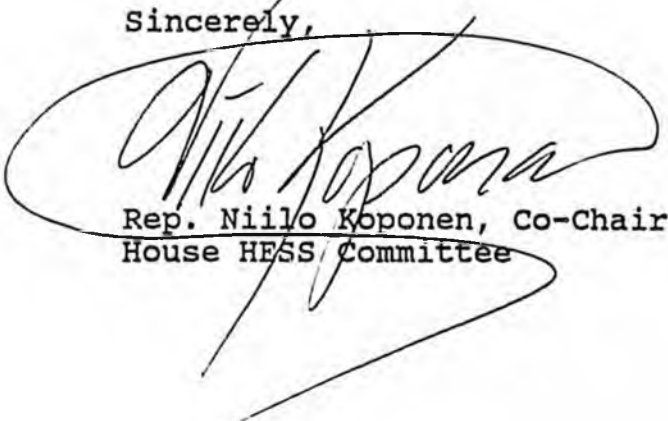
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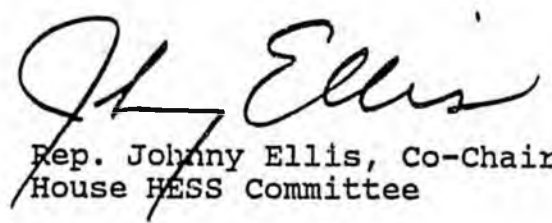
If you have any questions please contact us or Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Edward Jacobs  
117 East Live Oak Ave.  
Arcadia, CA 91006

Dear Dr. Jacobs:

Thank you for your testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide written comments and other documentation regarding this bill. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

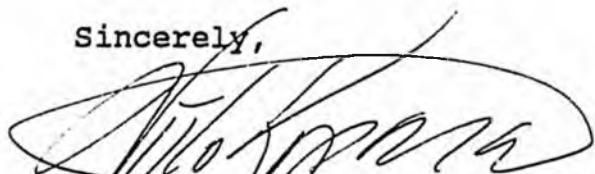
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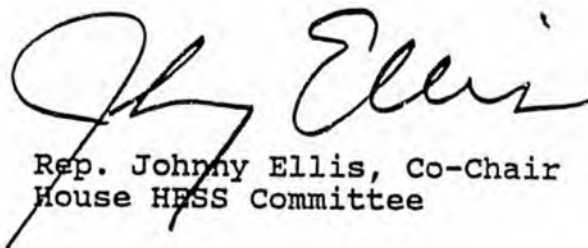
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Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

April 15, 1988

POUCH V  
JUNEAU, AK 99811  
465-3759

Dr. Robert C. Gilkeson  
2 Horatio St.  
Apt. 10 P  
New York, NY 10014

Dear Dr. Gilkeson:

We are sorry that we were unable to hear your testimony on CSSB 32 (HESS) on April 14th and apologize if it caused you any inconvenience. Members of the Committee would sincerely appreciate, however, if you could provide written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

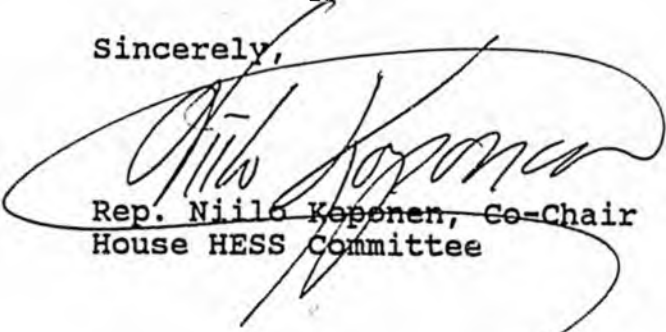
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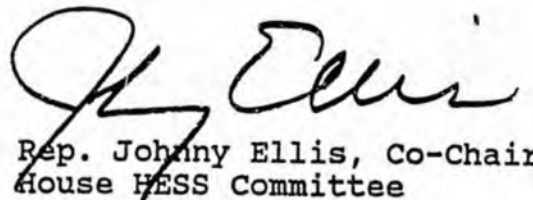
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Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Norman Zinberg  
11 Scott St.  
Cambridge, MA 02138

Dear Dr. Zinberg:

Thank you for your testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide further written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

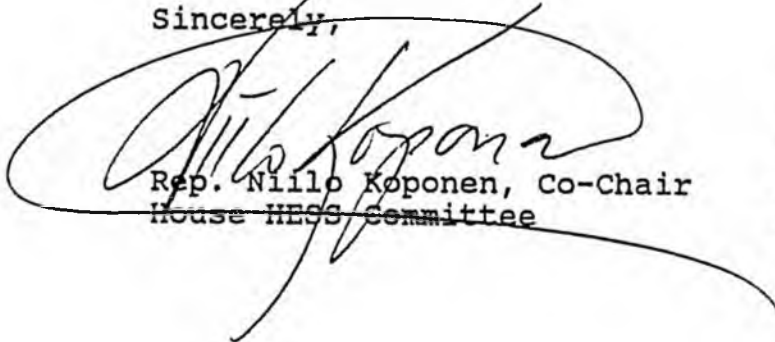
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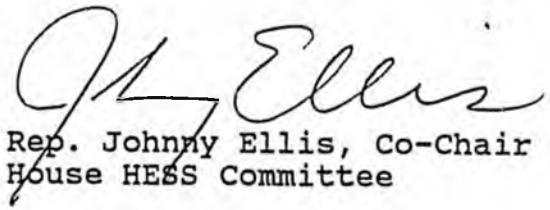
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Nillo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Lester Grinspoon  
Massachusetts Mental Health Center  
74 Fenwood Rd.  
Boston, MA 02115

Dear Dr. Grinspoon:

Thank you for your testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide further written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

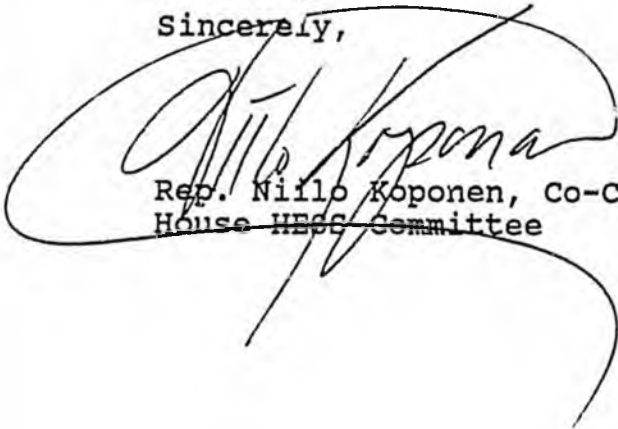
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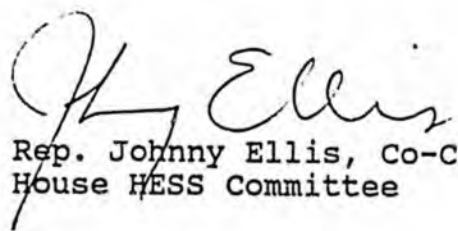
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Thank you.

Sincerely,



Rep. Nillo Koponen, Co-Chair  
House ~~HESS~~ Committee



Rep. Johnny Ellis, Co-Chair  
House ~~HESS~~ Committee



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Tod Mikuriya  
1168 Sterling Ave.  
Berkley, CA 94708

Dear Dr. Mikuriya:

Thank you for your testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide further written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

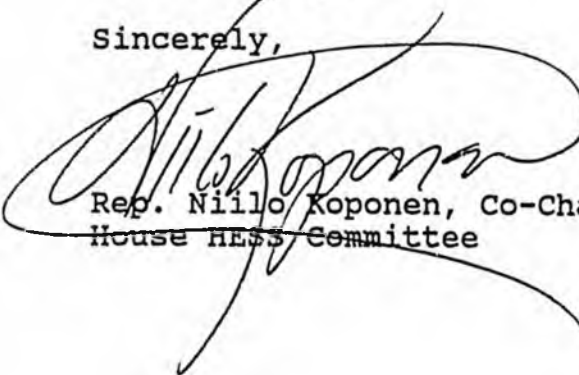
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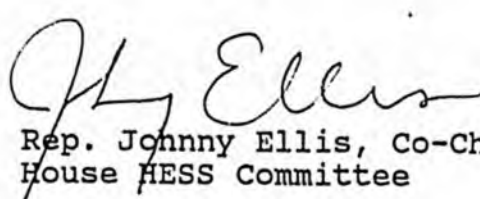
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V  
JUNEAU, AK 99811  
465-3759

TO: Senator Paul Fischer

FROM: Rep. Niilo Koponen, Co-Chair House HESS Committee  
Rep. Johnny Ellis, Co-Chair House HESS Committee

RE: SB 32

DATE: April 21, 1988

\*\*\*\*\*

We wanted to provide you with a copy of the minutes for each of the four hearings we had on SB 32, as well as to update you on the status of the bill.

In the first hearing, we concentrated on the background, legal and constitutional aspects of the bill, and during the next hearing, that evening, we took four hours of public testimony. The next morning we heard from medical experts, and the day following we discussed the fiscal impacts of the bill.

It became abundantly clear through these hearings that the findings section was the heart of this bill. In the Ravin decision, the Supreme Court allowed for their decision to be reversed based on new evidence of marijuana's danger to the public health. This is what the findings section is designed to do.

During the hearing on the findings, various doctors testified both to support and to refute the findings. Several of the findings were either unsupported or simply false according to the testimony. It is extremely important that each of these findings be substantiated by well documented and valid medical research in order to make a strong case in front of the court. While doctors can be found to argue both sides of these findings, the burden of proof lies with proving them.

Since evidence proving many of these findings has not been made available to the Committee, we put the bill in subcommittee in order to gather more information. As the sponsor of the bill, we request that you provide backup that will support the findings. Please refer specifically to the attached House Research Report for areas where the findings are unsupported.

We will have a subcommittee meeting next week, and we invite you to present your backup at that time. If you have any questions, please contact us or Jim Nordlund of our staff.



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Bernard Segal  
Center for Alcohol and Addiction Studies  
University of Alaska  
3211 Providence Dr.  
Anchorage, AK 99508

Dear Dr. Segal:

Thank you for your testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide further written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

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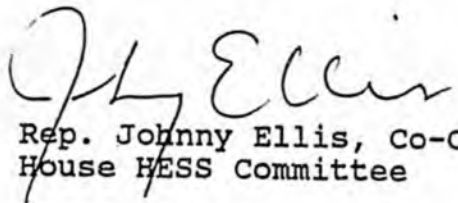
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. John Morgan  
Director of Pharmacology  
City University of New York  
138th St. at Convent  
New York, NY 10031

Dear Dr. Morgan:

Thank you for your excellent, detailed testimony on April 14th regarding CSSB 32 (HESS). Members of the Committee would sincerely appreciate if you could provide written comments and other documentation regarding this bill. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

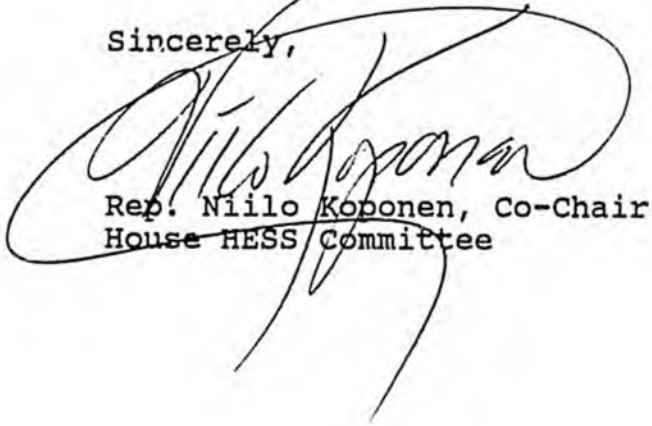
Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from Legislative Legal Counsel states that the bill as it presently exists would most likely not meet the constitutional test and again would be thrown out by the court. This would result in a waste of time and money by the legislature, and would serve to discredit the legislature in the eyes of the court. If we are to pass this bill, we need better documentation, and your help in this regard would be greatly appreciated.

Enclosed is a copy of the bill, a copy of the Ravin decision and a copy of the legal opinion from Legislative Legal Counsel.

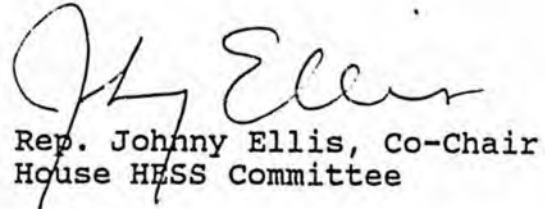
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Jean Bonar  
Providence Professional Bldg.  
3300 Providence Dr. Suite 301  
Anchorage, AK 99508

Dear Dr. Bonar:

Thank you for your testimony on CSSB 32 (HESS) last Thursday. Members of the Committee would sincerely appreciate if you could provide written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. If we are to pass this bill, we need better documentation, and your help in this regard would be greatly appreciated.



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House of Representatives  
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JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Arthur McBay  
Chief Medical Examiner  
State of North Carolina  
Department of Human Resources  
Chapel Hill, NC 27514

Dear Dr. McBay:

We are sorry that we did not have time to hear your testimony on CSSB 32 (HESS) last Thursday and apologize if it was an inconvenience for you. Members of the Committee would sincerely appreciate, however, if you could provide written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.

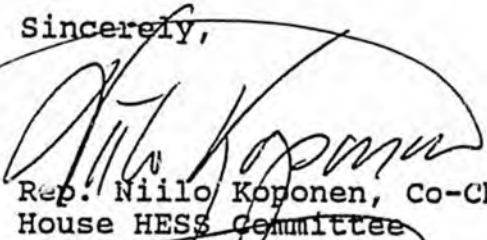
Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. If we are to pass this bill, we need better documentation, and your help in this regard would be greatly appreciated.

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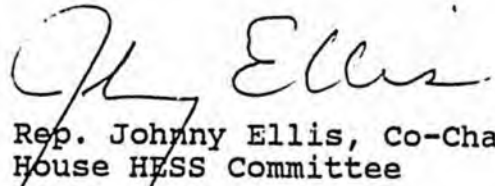
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
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OFFICIAL BUSINESS

POUCH V  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Forest Tennant  
336 1/2 S. Glendora Ave.  
West Covina, CA 91790

Dear Dr. Tennant:

We are sorry that we were unable to hear your testimony on CSSB 32 (HESS) on April 14th. Our staff contacted your office several times to confirm your availability. Unfortunately it was not manageable to connect you to the Legislative Teleconference Network with such late notice. Members of the Committee would sincerely appreciate, however, if you could provide written comments. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes given findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The Senate intended the findings section to be new evidence of marijuana's dangers.


Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. If we are to pass this bill, we need better documentation, and your help in this regard would be greatly appreciated.

Enclosed is a copy of the bill, a copy of the Ravin decision and a copy of the legal opinion from Legislative Legal Counsel.

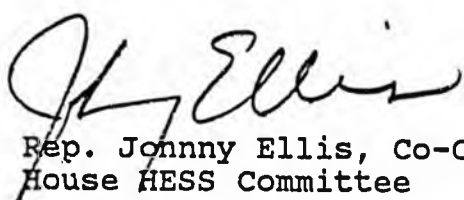
The legislature must adjourn by May 9th, so your response would be needed as soon as possible in order for the Committee to act this year. If you have any questions please contact Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Jonny Ellis, Co-Chair  
House HESS Committee



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
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OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465-3759

April 15, 1988

Dr. Arnold Relman  
Editor  
The New England Journal of Medicine  
1440 Main St.  
Waltham, MA 02254

Dear Dr. Relman:

Thank you for providing us with the names of individuals who could testify authoritatively on the report, Marijuana and Health. Unfortunately, we received the names the day after the hearing. You and the other doctors, however, can still be of great assistance to our committee.

We have referred the legislation in question, CSSB 32 (HESS) to a subcommittee due to serious questions about the validity of the findings in the bill. Since many of the findings were derived from Marijuana and Health, your help and the help of the other doctors would be extremely valuable in determining if the findings accurately represent your research. Members of the Committee would sincerely appreciate if you could provide written comments and other documentation regarding this bill. We are specifically looking for the scientific documentation from which each of the findings in this bill were taken. We are interested also in any scientific evidence which refutes the findings.

We realize that this is a large task given the complexity of the findings. It is very important, however, to the fate of this bill and the future of marijuana laws in Alaska. As you probably know, in 1975 the Alaska Supreme Court, in Ravin v. State allowed for the possession of under four ounces of marijuana, by an adult, in the home, for personal use, due to the strong right to privacy in the State Constitution. The Court's opinion stated that the use of marijuana did not pose a significant public health problem, and was far more innocuous than alcohol and tobacco. The court did allow for a reversal of this decision based on the presentation of new evidence of the dangers of marijuana. The bill sponsor intended the findings section to be new evidence of marijuana's dangers.

Since this bill, if passed, will undoubtedly come again before the court, the validity and substantiation of these findings is critical to a convincing argument leading the court to overturn the Ravin decision. Based on the testimony we heard last week, Committee members feel that several of the findings either need better documentation or need to be deleted altogether. An opinion from our Legislative Legal Counsel states that the bill as it presently exists would probably not meet the constitutional test and would be thrown out by the court. This would result in a waste of time and money by the legislature, and would serve to discredit the legislature in the eyes of the court. If we are to pass this bill, we need better documentation, and your help in this regard would be greatly appreciated.

Enclosed is a copy of the bill, a copy of the Ravin decision and a copy of the legal opinion from Legislative Legal Counsel.

The legislature must adjourn by May 9th, so your response would be needed as soon as possible for the Committee to act this year. If such a quick response is not possible, we would still welcome your comments to be included as part of the official legislative record. A bill similar to this has been in the Legislature for the past six legislative sessions, and could be introduced again.

Our staff informs us that you preferred to defer to the other research professionals regarding any comment on the report. We would still appreciate your personal comments however, given your preeminence in the medical community and since Marijuana and Health is known colloquially as the "Relman Report".

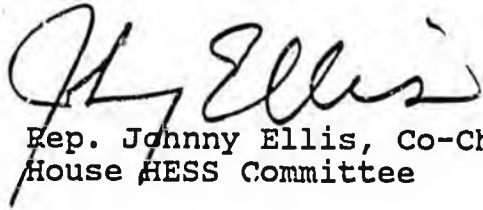
If you have any questions please contact us or Jim Nordlund of our staff at (907) 465-3759.

Thank you.

Sincerely,



Rep. Niilo Koponen, Co-Chair  
House HESS Committee



Rep. Johnny Ellis, Co-Chair  
House HESS Committee