

SB

184

<TARGET><BILL>SB 184</BILL><SUBJECT>SB
184</SUBJECT><COMM>SJUD30</COMM></TARGET>

ALASKA STATE LEGISLATURE

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SENATOR Tom Begich SENATE DISTRICT J

Senate Bill 184 Sponsor Statement

“An Act restricting the release of certain records of convictions; relating to criminal history information for state employment applications; amending Rule 37.6, Alaska Rules of Administration; and providing for an effective date.”

Senate Bill 184 would make confidential the records of individuals who have been convicted of minor marijuana crimes, and no other crime. In 2014, Alaskans voted to legalize the cultivation, sales, and possession of marijuana for those 21 years old or older. This legislation led to a robust and growing marijuana industry, but some Alaskans remain blocked from employment and housing by previous marijuana possession.

According to a report by Legislative Research, between 2007 and 2017 there were more than 700 Alaskans convicted of low level marijuana crimes. Those convictions can make obtaining housing and gainful employment challenging, even though marijuana possession would not be a crime today.

Further, Senate Bill 184 would prevent the State from asking if someone has been convicted of a felony on a job application, with an exclusion for any position related to the criminal justice field. This type of 'ban the box' legislation has been shown to reduce barriers to gainful, full-time employment, amongst the most important factors in reducing recidivism.

Now that voters have legalized marijuana, this legislation would allow those previously convicted to move on with their lives, while ensuring those in the criminal justice field still have access to needed background information.

Thank you for your consideration.

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Senate Bill 184 Sectional Analysis

"An Act restricting the release of certain records of convictions; relating to criminal history information for state employment applications; amending Rule 37.6, Alaska Rules of Administration; and providing for an effective date."

Section 1: Describes the legislative intent to reduce barriers to re-entry for those convicted of low-level marijuana possession, which would no longer be considered crimes today.

Section 2: Prohibits the Department of Public Safety, and any designated reporting agency, from disclosing any criminal records associated with possession of less than one ounce of a schedule VIA controlled substance conviction, covering both State Statute and municipal ordinance. These cases will be protected from disclosure only if marijuana possession is the only crime for which the person was convicted in a particular criminal case. A schedule VIA controlled substance considered to have the lowest degree of danger to users. Marijuana is the only VIA drug.

Section 3: Makes Alaska Court System's records of criminal cases involving convictions for possession of less than one ounce of marijuana confidential. Those cases would not be available on Court View.

Section 4: Limits a State agency's ability to ask a job applicant if they have been convicted of a crime. This section makes an exception for any position associated with the criminal justice field.

Section 5: Indirectly amends Alaska Court System Rules of Administration by making certain cases confidential.

Section 6: Because Section 5 indirectly amends a court rule, this legislation will require a two-thirds vote as described by the Alaska Constitution.

Section 7: Provides 120 days for this legislation to take effect after bill signing, giving the Courts as well as affected agencies time to change their reporting protocols.



FEBRUARY 8, 2018

PRESS RELEASE

City of Seattle to Nullify All Misdemeanor Marijuana Possession Convictions From Years Prior to Legalization



Announcement Comes on the Heels of San Francisco Making Similar Move Last Week

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Seattle Mayor Jenny Durkan and City Attorney Pete Holmes announced today that the city will nullify all misdemeanor convictions for marijuana possession in the years before marijuana was legalized for adult use in Washington state.

Marijuana possession arrests in Washington state rose sharply in the 25-year period leading up to legalization, from 4,000 in 1986 to 11,000 in 2010, totaling 240,000 arrests, as noted in a recent [report](#) from the Drug Policy Alliance. The city is going as far as they can go to provide retroactive relief to people with marijuana convictions – providing relief to people convicted of marijuana felonies would require the state to take action.

“Seattle is doing the right thing,” said Jolene Forman, staff attorney for the Drug Policy Alliance. “It is important that states considering legalizing marijuana, as well as states that already have legalized, they acknowledge the past harms of the unequal enforcement of marijuana laws, and work to repair them. Repairing the harms of marijuana criminalization, especially in communities of color that have been hit the hardest by our destructive drug laws, is an essential piece of properly implementing marijuana legalization. It is exciting to see a city like Seattle doing all it can to improve what the state of Washington approved in 2012.”

This decision follows a similar move made by the city of San Francisco last week for all marijuana related convictions that were changed by Proposition 64, including felonies. The Drug Policy Alliance estimates up to one million people are eligible to have their records changed across the state of California, and has been organizing expungement clinics across the state helping qualified people get their records changed. The next clinic is on Saturday, March 17th, in Los Angeles.

California’s Prop. 64 set a new standard to prioritize restorative justice in efforts to legalize marijuana. Expunging records for people who were convicted of things that are now legal was a groundbreaking criminal justice provision of Prop. 64 and, as Seattle is showing, it is catching on in jurisdictions that legalized marijuana prior to California. The Drug Policy Alliance drafted Prop. 64 to include this essential component.

While California was the only state, thus far, to include retroactive record clearing provisions in its marijuana legalization law, additional states have passed or are working to pass such provisions through the legislature. For example, the Oregon legislature passed a bill in 2015 allowing people convicted of marijuana offenses to retroactively clear their records. In addition, Colorado passed a bill in 2017 allowing prior marijuana misdemeanors to be expunged from a person’s record.

LEGISLATIVE RESEARCH SERVICES

30th Alaska Legislature
LRS Report 18.066
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Conviction Data for Marijuana Possession in Alaska, 2007-2017

Susan Haymes, Manager

How many people in Alaska were convicted for possession of less than one ounce of marijuana in the ten years before recreational marijuana was legalized in Alaska?

In 2014, Alaska became the third state to legalize recreational marijuana.¹ Ballot Measure 2 allows Alaskans aged 21 years and older to possess up to an ounce of cannabis and grow up to six plants in their homes, with three flowering at one time. Public consumption of marijuana continues to be illegal. In 2015, the Legislature established the Marijuana Control Board to regulate the new industry.

The Alaska Court system tracks cases by the statute under which defendants are convicted. For the purposes of this report, the Court System was able to provide, for the years 2007 through 2017, a count of cases in which defendants had one or more convictions only under the relevant statute that codifies possession of less than one ounce of a schedule VIA substance (marijuana) as misconduct involving a controlled substance in the sixth degree.² In other words, the number of cases reflects defendants who only had a conviction under AS 11.71.060(a)(2) or AS 11.71.060(a)(2)(A), but no other offenses. For the time frame beginning January 1, 2007, through June 30, 2011, this statute was AS 11.71.060(a)(2), and for the period beginning July 1, 2011, through December 20, 2017, the controlling statute was, and still is, AS 11.71.060(a)(2)(A).

Nancy Meade, General Counsel, Alaska Court System emphasized that these numbers should be considered “ballpark” rather than wholly accurate. She stressed that this search query does not include cases where the charge was not filed under one of the specific subsection of AS 11.71.060 noted above. For example, relevant cases could have been charged under AS 11.71.060 or AS 11.71.060(a).

¹ The law became effective in February 2015. Prior to the passage of Ballot Measure 2, the possession and personal use of relatively small amounts of marijuana was permitted as the result of court decisions based on the privacy clause of the Alaska State Constitution. Beyond this judicial construct, Alaska law permitted marijuana use only for medicinal purposes (AS 17.37).

² In Alaska, marijuana is considered a “schedule VIA controlled substance,” which includes those controlled substances deemed “to have the lowest degree of danger or probable danger to a person or the public” (AS 11.71.190). Marijuana remains illegal under federal law, where it is still classified as a Schedule 1 substance under the Controlled Substances Act, where Schedule 1 substances are considered to have a high potential for dependency and no accepted medical use.

(footnote continued)

Additionally, because convictions are tracked by statute number, it is unknown what specific conduct was actually at issue in a particular case.³

A further limitation to the data is that 2012 was the first year that all courts in the state were entering case information on the court system's data tracking structure, known as CourtView. Thus, for the years before 2012, the number of convictions identified does not include cases from some of the smaller courts.

Number of Cases in Alaska with Convictions for Possession of Less Than One Ounce of Marijuana, 2007-2017		
Year	Description of Charge for the Conviction	Cases
2007	AS 11.71.060(a)(2): Cntrl'd Subs 6 - Possess <1 oz VIA	26
2008	AS 11.71.060(a)(2): Cntrl'd Subs 6 - Possess <1 oz VIA	41
2009	AS 11.71.060(a)(2): Cntrl'd Subs 6 - Possess <1 oz VIA	73
2010	AS 11.71.060(a)(2): Cntrl'd Subs 6 - Possess <1 oz VIA	91
2011	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA	97
2012	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA	112
2013	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA	145
2014	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA	111
2015	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA	17
2016	AS 11.71.060(a)(2)(A): Cntrl'd Subs 6 - Possess <1 oz VIA AS 11.71.060(a)(2)(A): MICS5 Possess <1 oz VIA	6
2017	AS 11.71.060(a)(2)(A): MICS5 Possess <1 oz VIA	2

Notes: The number of cases reflect only those cases with one or more convictions under the relevant statute that codifies possession of less than one ounce of marijuana as misconduct involving a controlled substance. The number of cases should be considered a "ballpark" figure.

Source: Nancy Meade, General Counsel, Alaska Court System, 907-264-8264.

We hope this is helpful. If you have questions or need additional information, please let us know.

³ Ms. Meade can be reached at 907.264.8264 or by email at NMeade@akcourts.us.