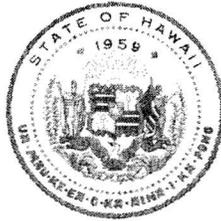


LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director of
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1192
A BILL FOR AN ACT RELATING TO
MARIJUANA

Clayton A. Frank, Director
Department of Public Safety

Committee on Public Safety
Representative Faye P. Hanohano, Chair
Representative Henry J.C. Aquino, Vice Chair

Committee on Human Services
Representative John Mizuno, Chair
Representative Tom Brower, Vice Chair

Thursday, February 5, 2009, 5:00 PM
State Capitol, Room 309

Representatives Hanohano, Mizuno and Members of the Committees:

The Department of Public Safety does not support House Bill 1192 that proposes to make possession of less than one ounce of marijuana a civil fine and delete the criminal offence of possessing any amount of marijuana in section 712-1249. The use of illegal drugs should not be dealt with like a traffic violation where a suspect can just pay a fine and be required to attend a class. The Department feels that this sends the wrong message to the citizens and youth of Hawaii, that smoking and possessing under one ounce of marijuana is not a big deal, it's not a criminal violation, "it's just a fine."

The Department feels that the existing language in section 706-622.5 gives the courts the latitude to sentence the first time drug offender to probation

House Bill 1192
February 5, 2009
Page 2

and even expungement of their criminal records if they do not re-offend. House Bill 1192 would delete the possession of less than one ounce of marijuana from section 712-1249 resulting in a person being able to constantly abuse the law and just pay a fine.

For these reasons, the department cannot support House Bill 1192 and ask that it be held.

Thank you for the opportunity to testify on this matter.



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 1192, RELATING TO MARIJUANA.

BEFORE THE:

HOUSE COMMITTEES ON PUBLIC SAFETY
AND ON HUMAN SERVICES

DATE: Thursday, February 5, 2009 TIME: 5:00 PM

LOCATION: State Capitol, Room 309

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chairs Hanohano and Mizuno and Members of the Committees:

The Department of the Attorney General opposes this bill.

The purpose of this bill is to decriminalize the possession of less than an ounce of marijuana by making it a "civil offense" that would result in the imposition of a \$100 fine. The Attorney General would bring a "civil action" against any person in violation of this offense.

Decriminalization of marijuana is not appropriate. The possession of marijuana is illegal under federal law. Under Hawaii law, the possession of less than an ounce of marijuana is a petty misdemeanor offense, Promoting a Detrimental Drug in the Third Degree, in violation of section 712-1249 of the Hawaii Revised Statutes. Hawaii has made a limited and controlled exception for those who need marijuana for medical purposes. There is no reason to reduce the offense from a petty misdemeanor to a "civil offense."

With respect to the Attorney General bringing the "civil action" to enforce this new "civil offense," the bill does not explain what is meant by "civil offense," nor does it establish any process to enforce the offense. It is not clear what kind of "civil action" is needed and what process would need to be followed.

In addition to the funding and resources needed by the office of youth services to develop and implement the drug awareness program for youthful offenders that is mandated by this bill, it appears that funding and resources will also be needed to establish and maintain the new program and process for the "civil offense." Funding and resources will also be needed to establish and maintain units to investigate and civilly enforce the new offense. In view of the fiscal constraints faced by the State at this time, establishing and implementing a new program at this time may be difficult to accomplish.

For the foregoing reasons, the Department opposes this bill and respectfully requests that it be held.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
OFFICE OF YOUTH SERVICES
820 Millilani Street, Suite 817
Honolulu, Hawaii 96813

Phone: (808) 587-5700
Fax: (808) 587-5734

February 5, 2009

TO: The Honorable Faye P. Hanohano, Chair
House Committee on Public Safety

The Honorable John M. Mizuno, Chair
House Committee on Human Services

The Honorable Ryan I. Yamane, Chair
House Committee on Health

FROM: Martha T. Torney, Executive Director

SUBJECT: HB 1192, RELATING TO MARIJUANA

Hearing: Thursday, February 5, 2009; 5:00 p.m.
State Capitol, Conference Room 309

The Office of Youth Services (OYS) does not support House Bill No. 1192 which requires us to development and implement a drug awareness program for youth. We do not believe the proposed program is appropriate for OYS and are very concerned that a new unfunded mandate would be added at this time.

Section 1 of the Bill, which amends Chapter 329, Uniform Controlled Substances Act, describes what the program must include:

The drug awareness program shall provide at least four hours of classroom instruction or group discussion and ten hours of community service.

First, we are concerned that a drug awareness program be mandated without an assessment of the individual needs of the person being referred. Although a youth is adjudged to be in possession of one ounce or less of marijuana, in fact they may be a

poly-substance abuser with a serious addiction problem and would not benefit at all from the program. Second, the program would require OYS to oversee the community service provision, a function that is usually carried out by the Courts. We do not have the authority to enforce court orders, nor are we prepared to.

The amendments to Chapter 352D, Youth Services, further expand the scope of the program by requiring we address "other controlled substances" and emphasize "early detection and prevention." OYS does not currently offer community-based prevention and substance abuse services as these fall within the purview of other State agencies, nor do we possess knowledge or expertise in this area.

Another troubling aspect of this measure is that it creates an unfunded mandate. We cannot support the expansion of our programs at this time given the current fiscal difficulties.

In summary, the OYS does not support this measure as written. Thank you for the opportunity to present this testimony.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

**THE HONORABLE FAYE HANOHANO, CHAIR
HOUSE PUBLIC SAFETY COMMITTEE
THE HONORABLE JOHN MIZUNO, CHAIR
HOUSE HUMAN SERVICES COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i**

February 05, 2009

RE: H.B. 1192; RELATING TO MARIJUANA.

Chair Hanohano and members of the House Committee on Public Safety, Chair Mizuno, and members of the House Human Services Committee, the Department of the Prosecuting Attorney submits the following testimony in opposition to H.B. 1192.

The purpose of this bill is to decriminalize the possession of less than one ounce of marijuana. Under H.B. 1192, possession of less than one ounce of marijuana would be a civil offense punishable by a civil fine of \$100 and forfeiture of the marijuana. The Attorney General would bring the civil actions to enforce these provisions. In addition, persons who are less than eighteen years of age shall be required to complete a drug awareness program within one year of the date of the civil judgment.

We oppose this measure as we believe that it is unnecessary. Unlike other jurisdictions that had or have stiff penalties for the possession of small amounts of marijuana, here in Hawaii possession for under one ounce of marijuana is a petty misdemeanor pursuant to Hawaii Revised Statutes (HRS) 712-1249. Although a jail term of thirty days and/or a fine of \$1,000 are possible, the courts routinely grant a deferral of no contest and guilty pleas pursuant to HRS chapter 853 and impose a fine of \$50 to \$150. Since a deferral discharges the defendant, dismisses the charge and does not result in a conviction, we do not think that the current penalties for possession of less than an ounce of marijuana are excessive or unreasonable.

We also note that possession of marijuana will still remain illegal under federal law even if H.B. 1192 should pass. We strongly believe that the state should not decriminalize or minimize drug use. For these reasons, we oppose H.B. 1192.

Thank you for this opportunity to testify.

CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney
PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

February 4, 2009

HONORABLE FAYE P. HANOHANO, CHAIR
HONORABLE HENRY J.C. AQUINO, VICE CHAIR
COMMITTEE ON PUBLIC SAFETY

HONORABLE JOHN M. MIZUNO, CHAIR
HONORABLE TOM BROWER, VICE CHAIR
COMMITTEE ON HUMAN SERVICES

HONORABLE RYAN I. YAMANE, CHAIR
HONORABLE SCOTT Y. NISHIMOTO, VICE CHAIR
COMMITTEE ON HEALTH

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN OPPOSITION OF H.B. NO. 1192
RELATING TO MARIJUANA

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly opposes H.B. 1192 Relating to Marijuana.

Apparently, this bill attempts to decriminalize possession of marijuana involving less than one ounce. More importantly, the bill further seeks to decriminalize possession of less than an ounce of marijuana as it pertains to minors.

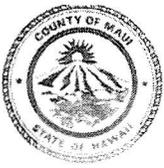
Here, it is very troubling that on the one hand, the law decriminalizes the possession of marijuana, then on the other hand, requires the perpetrator to undergo a "drug awareness program".

Furthermore, under Federal law, the manufacture, distribution, or possession of marijuana remains a criminal offense. See 21 USC § 841(a)(1).

Finally, we are concerned that the public, especially minors, will receive the wrong message, i.e. that it is okay to use and possess marijuana, even without a valid medical marijuana certificate.

Accordingly, for the reasons discussed above, our Department strongly opposes H.B. 1192. Thank you for the opportunity to testify.

(H.B. 1192, Relating to Marijuana)



POLICE DEPARTMENT
COUNTY OF MAUI



CHARMAINE TAVARES
MAYOR

THOMAS M. PHILLIPS
CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

February 3, 2009

The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Public Safety
House of Representatives
State Capitol
Honolulu, HI 96813

The Honorable John M. Mizuno, Chair
and Members of the Committee on Human Services
House of Representatives
State Capitol
Honolulu, HI 96813

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Health
House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chairs Hanohano, Mizuno, and Yamane and Members of the Committees:

SUBJECT: House Bill No. 1192, Relating to Possession of Marijuana; Civil Penalties

The purpose of this bill makes the possession of less than one ounce of marijuana a civil offense and imposes fines and requires persons under eighteen years of age against whom a civil judgment is entered to complete a drug awareness program.

This bill decriminalizes the possession of less than an ounce of marijuana by imposing a fine of \$100 and states that the attorney general may bring a civil action on behalf of the State, against any person who possesses marijuana in violation of this offense. It also stated that offenders under the age of eighteen shall be required to complete a drug awareness program (of at least four hours of classroom instruction or group discussion) within one year of the date of civil judgment. This bill also removes marijuana from the Hawaii Revised Statutes, Chapter 712-1249, promoting a Detrimental Drug in the Third Degree.

The Honorable Faye P. Hanohano, Chair
The Honorable John M. Mizuno, Chair
The Honorable Ryan I. Yamane, Chair
February 3, 2009
Page 2

The passage of this bill will set a dangerous precedent for future decriminalization of Hawaii's laws by special interest groups. It is contrary to the drug education and awareness programs efforts throughout the State. This bill has no deterrent to the use of marijuana, especially by those under the age of eighteen.

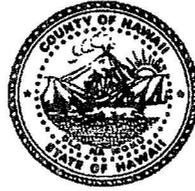
The Maui County Police Department humbly asks for your support in opposing House Bill 1192. The passage of this bill will considerably enhance the potential for marijuana abuse.

Thank you for the opportunity to testify.

Sincerely,


THOMAS M. PHILLIPS
Chief of Police

William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-2389

February 4, 2009

Representative Faye Hanohano
Chairperson and Members
Committee on Public Safety
415 South Beretania Street, Room 309
Honolulu, Hawai`i 96813

Re: House Bill 1192, Relating to Marijuana

Dear Representative Hanohano and members:

The Hawai`i Police Department strongly opposes the passage of the following bill:

- **HB 1192, Relating to Marijuana:** Makes the possession of less than one ounce of marijuana a civil offense (rather than a petty misdemeanor) and imposes fines. It also requires a person under the age of 18 against whom a civil judgment is entered to complete a drug awareness program.

Currently, if an individual is arrested and charged for possession of less than an ounce of marijuana, that individual is in violation of Section 712-1249 of the Hawai`i Revised Statutes as amended, a petty misdemeanor. More than likely, a first-time offender will receive a fine of \$75 - \$150 or could receive probation. Keeping the penalty as a petty misdemeanor will have a greater effect on repeat offenders if it is known that judges have the discretion to impose stiffer sentences.

This bill seeks to lower penalties and, in essence, minimize the seriousness of recreational marijuana use. On the other hand, it uses funds derived from collected fees to develop and implement a drug awareness program with emphasis on early detection and prevention of substance abuse, including marijuana use. In Canada, after a large decline in the 1980s, marijuana use among teens increased during the 1990s as young people became "confused about the state of federal pot law" in the wake of an aggressive decriminalization campaign. These bills, while making no mention of decriminalization, are masked as such, and send the wrong message to our youths.

Marijuana is still a controlled substance under both Federal and Hawai`i state law. Therefore, it would be hypocritical for law enforcement to support the passage of a law seeking to circumvent federal and state laws. The message could be interpreted as the State of Hawai`i Legislature legalizing drug trafficking within the state.

To amend our current statutes from their current restrictions would only assist those individuals now growing marijuana illegally and generating huge profits by allowing them to use the medical marijuana law to aid in avoiding detection. Passage of these bills would further hamper law enforcement organizations in their efforts to control this drug and the related crimes that come with it.

Representative Faye Hanohano
Chairperson and Members
February 4, 2009
Page 2

Before you vote on these bills, I urge you all to watch a television documentary called "Marijuana, Inc." on CNBC. The program documents the widespread marijuana business in Mendocino, California, and the huge influx of marijuana growers into the area after marijuana laws were relaxed there. The program, which airs on CNBC on February 8, February 16 and February 23, makes it clear just how hard it would be to undo the damage caused by lax marijuana laws if we passed these bills now and later changed our minds.

For the reasons above, we urge this committee to reject these pieces of legislation.

Thank you for allowing the Hawai'i Police Department to testify on these bills.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ferreira", with a long horizontal line extending to the right.

PAUL K. FERREIRA
ACTING POLICE CHIEF



Via E-mail: PBSTestimony@Capitol.hawaii.gov
Committee: Committees on Public Safety and Human Services
Hearing Date/Time: Thursday, February 5, 2009, 5:00 p.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii in Support of HB 1192, Relating to Marijuana

Dear Chair Hanohano, Chair Mizuno, and Members of the Committees on Public Safety and Human Services:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of HB 1192, which makes possession of less than one ounce of marijuana a civil offense.

We support measures that seek to end punitive drug policies that cause widespread violations of constitutional and human rights and lead to unprecedented levels of incarceration. HB 1192 is such a measure. Our understanding is that, currently, twelve states have laws that remove the threat of jail time for those found to be in possession of small amounts of marijuana: California, Colorado, Maine, Massachusetts, Minnesota, Mississippi, Nevada, North Carolina, New York, Nebraska, Ohio, and Oregon.¹ Furthermore, our understanding is that six other states – Connecticut, Montana, New Hampshire, Texas, Vermont and Washington – are considering similar legislation as well.

Voters on the Big Island have already indicated that they do not want to spend their limited law enforcement dollars enforcing outdated and ineffective drug laws. It is time to use our limited resources more wisely, and HB 1192 is a step towards that goal.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

¹ Marijuana Policy Project, State-By-State Medical Marijuana Laws (2008), http://www.mpp.org/assets/pdfs/download-materials/SBSR_NOV2008.pdf.

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Hon. Rep. Hanohano, Chair, PBS Committee,
Hon. Rep. Mizuno, Chair, HUS Committee,
and Members Thereof
February 5, 2009
Page 2 of 2

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. M. Gluck', written in a cursive style.

Daniel M. Gluck
Senior Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

COMMITTEE ON HUMAN SERVICES

Rep. John Mizuno, Chair

Rep. Tom Brower, Vice Chair

COMMITTEE ON HEALTH

Rep. Ryan Yamane, Chair

Rep. Scott Nishimoto, Vice Chair

Thursday, February 5, 2009

Room 309

5:00 P.M.

SUPPORT – HB 1192 – Decriminalizing Marijuana

PBSTestimony@capitol.hawaii.gov

Aloha Chairs Hanohano, Mizuno, and Yamane and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

Mahalo nui for hearing this cadre of bills tonight. HB 1192 makes possession of less than one ounce of marijuana a civil offense and imposes fines. It also requires persons under 18 years of age against whom a civil judgment is entered to complete a drug awareness program.

This discussion on marijuana and medical cannabis is long overdue. The economic crisis has presented us with an opportunity to re-think how we are doing things and assess the effectiveness of policies enacted. The current law may not seem so punitive, but it does constitute a criminal violation with a potential of a \$1000 fine and a year in jail. The current law also has far-reaching implications, especially for our youth who may find it difficult to secure college loans, or housing, or jobs if there is any drug conviction on record.

A study entitled, [The Budgetary Implications of Marijuana Decriminalization and Legalization for Hawai'i](#) by Lawrence W. Boyd, Ph.D., Economist, UH West O'ahu, reports that \$4 - \$5 million dollars could be saved each year by changing this penalty to a civil violation similar to a parking ticket. The study can be accessed at:

<http://www.dpfhi.org/docs/Budgetary%20Implications%20of%20Marijuana%20Decrim.pdf>

Twelve states to date have decriminalized marijuana and have not seen an increase in usage. Several other states are considering similar laws. Eliminating the criminal penalty for under an ounce of marijuana has not seemed to be a problem in other jurisdictions, and saving the state \$4 - \$5 million in these trying budgetary times is prudent.

The Budgetary Implications of Marijuana Decriminalization and Legalization for Hawai`i concludes:

The cost savings from decriminalizing marijuana are approximately \$4 million although this leaves out some additional costs related to legal defense, and some state programs like drug courts. These would bring the total to \$5 million. The reason that these are so low is that Hawai`i appears to have a de facto policy of lax enforcement of this law. Legalization would save an additional \$4 to \$5 million. Taxes from legalization would bring in anywhere from \$4 million to \$23 million depending on tax rates. A large body of literature suggests that decriminalization would not lead to additional use. Legalization would increase the supply of marijuana and thereby reduce the price and increase use. Should the social costs, and thus public policy warrant it, this could be controlled through appropriate tax rates.

The state is currently spending approximately \$165 million a year on corrections, including more than \$52 million a year to banish more than 2,000 individuals to Arizona and Kentucky. The sad fact is that 60% of Hawai`i individuals serving their sentences abroad are either minimum or community custody, by Hawai`i's classification system, which is currently being re-tooled by the Criminal Justice Institute. More than 50% of incarcerated women and more than 30% of incarcerated men are community custody inmates, meaning that they could/should be in community reentry programs. Why are we content to spend huge sums of money to lock people up, banish them thousands of miles away to the hands of prison profiteers, and mix with individuals who are incarcerated for serious and violent crimes? This has proven to be a counter-productive and expensive strategy that we can change.

When I asked Jack Cole, a retired Police Chief and a former Vice Detective why he founded LEAP (Law Enforcement Against Prohibition) when he could be on the golf course or relaxing, he told me that after he retired he couldn't sleep. He said that faces of young people that he busted for small amount of marijuana kept swirling around his brain, making it impossible to sleep. He said that fighting the War on Drugs became his passion and his repentance.

Mahalo for this opportunity to testify and share this information with the Committee.



the
**Drug Policy
Forum**

February 5, 2009

To: Committee on Public Safety
Committee on Human Services
Committee on Health

From: Jeanne Ohta, Executive Director

RE: HB 1192 Relating to Marijuana
Hearing: February 5, 2009, 5:00 p.m., Room 309

Position: Strong Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in strong support of HB 1192 which makes the possession of less than one ounce of marijuana a civil offense and imposes fines. Require persons under eighteen years of age against whom a civil judgment is entered to complete a drug awareness program.

A study by University of Hawai'i West Oahu Economist Lawrence W. Boyd found that making possession of less than one ounce of marijuana a civil penalty could save the state \$5 million annually. The primary cost of marijuana criminalization is enforcement; this change would free police to deal with more serious crime.

The savings are not only economic. Although the current penalty is a petty misdemeanor, it is a criminal offense. Criminal records prevent some from obtaining federal student loans; prevent employment in certain jobs, even decades after the conviction; and prevent some from federal or state housing programs. Criminalizing possession of small amounts of marijuana creates additional harm to the individual; more harm than caused by the drug itself.

Public support for changing marijuana laws is growing. In November 2008, 58% of voters in Hawai'i County voted to make marijuana possession the "lowest law enforcement priority." That initiative directs law enforcement officials to treat the adult personal use of marijuana as its lowest law enforcement priority and prohibits the county from accepting or expending funds for marijuana eradication and for enforcing potential offenses for adult personal use.

Also in November 2008 65% of Massachusetts voters approved a decriminalization initiative which makes possession of up to an ounce of marijuana a civil citation punishable by a \$100 fine. Eleven other states have decriminalized possession of marijuana. Including Hawaii, six state legislatures are currently considering similar legislation. Montana is expected to introduce a bill this year.

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Email: info@dpfhi.org
Website: www.dpfhi.org

These recent trends confirm a 2004 poll of 501 adults conducted by QMark Research and Polling (Hawai'i) found that 60 percent strongly feel that adults should not go to jail for possessing marijuana for personal use. The same percentage, 60 percent, believed that the decades-long "war on drugs" is a failure. And a strong majority (56 percent) said that Hawai'i's seven-year old medical marijuana law makes it more likely to support a taxation and regulation policy for marijuana.

There are many myths about marijuana. Decriminalization does not lead to increased marijuana use. Research on the effects of marijuana decriminalization has tended to find either no relationship or a weak positive relation between marijuana decriminalization and drug use.

Marijuana is not now, nor has ever been a "gateway drug." The National Academy of Sciences found, "there is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs."

I suggest amending or eliminating the "drug awareness" requirement for teens. Teens are likely to have drug education programs in school. Further, there are no requirements that the drug awareness program be proven to be effective or evidence-based. While I hope that teens will choose not to use drugs, we need to prevent teens who do experiment from falling into abusive patterns and we need to protect them from harm; only evidence-based programs do so. Teens deserve credible, science-based information about drugs; they will make smart choices when given accurate and honest information.

Even with the provision allowing for a hearing to show why the fine should not be increased due to failure to attend a program, this policy creates a disparity for families with limited English abilities, those who must work and cannot attend hearings, or those who do not understand the court system. Further, programs are not likely to be equally accessible in all communities, thus requiring more hearings from certain neighborhoods than others.

Thank you again for taking such a bold step and hearing this bill. I urge this joint committee to pass this bill so that we may continue this important cost-saving discussion.

Richard S. Miller
Member, Board of Directors, Drug Policy Forum of Hawai'i
Attorney at Law, Professor of Law, Emeritus, and former dean,
The Wm. S. Richardson School of Law, The University of Hawai'i at Manoa
Phone: (808) 254-1796, Email: rmiller@aya.yale.edu

To: Committees on Public Safety, Human Services
For: Hearing, 5:00PM, Thursday, February 5, 2009, Conference Room 309
Bill Number: HB 1192

Testimony in Favor of HB 1192

Chairs Hanohano, Chair Mizuno, Vice Chair Aquino, Vice Chair Brower and Distinguished Committee Members:

This bill would decriminalize the possession of less than an ounce of marijuana and make it a civil offense and imposes noncriminal fines.

Current deteriorating economic conditions in this State, common sense, and a decent sense of proportion call for the swift passage of this bill

A study by the distinguished Hawai'i economist, Lawrence W. Boyd, Ph.D., University of Hawai'i, West O'ahu, revealed that decriminalizing marijuana usage could save the State of Hawai'i up to \$5,000,000 annually.¹ The text of Dr. Boyd's study may be found at the web site of the Drug Policy Forum of Hawai'i.

Dr. Boyd found virtually no deterrent effect in our current criminal marijuana laws. His findings support the view that passage of this bill will *not* increase marijuana usage. By substituting a civil sanction, with fine, for the current criminal sanction for possession and use of less than one ounce of marijuana, we will protect our university-bound students from possible loss of scholarship funding, an unfortunate and disproportionate federal penalty imposed on those who are arrested for the crime of possession of small amounts of marijuana under current law.

I strongly urge you to pass HB 1192.

Your consideration of this testimony is very much appreciated.

Mahalo nui loa,



¹ He also found that replacing criminalization of Marijuana with regulation and taxation could bring the State about \$25,000,000 per year.

From: Bill Best [bestb002@hawaii.rr.com]
Sent: Wednesday, February 04, 2009 3:03 PM
To: PBStestimony
Subject: supporting bills HB1192, 1194, 967, 1191, 1635, 1149

Categories: Green Category

As a sufferer of chronic pain for whom no prescription or over-the-counter drugs work, I so appreciated when my doctor suggested that I get a registered with a patient ID certificate. I always felt grateful to live in this humane state of Hawaii. Anything I can do to help in keeping patients' right to use this benign drug, I'd be happy to. Science is on our side, and I am glad to see politicians representing the citizens on this rather than drug or alcohol lobbyists who want to demonize marijuana.

Mahalo for allowing me input.

Barbara Best
280 Hauoli Street
Wailuku, HI 96793

From: Danielle Bass on behalf of Rep. Ryan Yamane
Sent: Wednesday, February 04, 2009 2:59 PM
To: HLTtestimony; PBStestimony
Subject: FW: Testimony for hearing on several bills this Thursday, 02-05-09 at 5:00 PM

Categories: Green Category

-----Original Message-----

From: Bill [mailto:divrb@netzero.net]
Sent: Wednesday, February 04, 2009 2:40 PM
To: Rep. Ryan Yamane
Cc: Rep. Scott Nishimoto
Subject: Fw: Testimony for hearing on several bills this Thursday, 02-05-09 at 5:00 PM

----- Forwarded Message -----

Aloha,

I am in support of the following House Bills and urge you to support them also. These are HB 1191, HB 226, HB 967, HB 1194, and **HB 1192**.

As a medical marijuana patient I have known only too well the difficulties encountered with growing and/or acquiring my medicine. The state of Hawaii supports and allows for persons with a medical marijuana recommendation from a physician to utilize cannabis in their treatment, but provides no means for them to obtain their medicine in a safe and legal manor. This not only forces people to seek out sources on the black market (thus encouraging this illegal market) but also forces patients unable to acquire or grow their medicine to take other prescribed medications proven to more harmful to the health than cannabis.

The state of Hawaii has shown that they believe in and support medical marijuana and it is about time that they do something to help the patients further. I have seen and know of many people that have turned their lives around by treating their medical ailments with cannabis instead of prescription drugs or narcotics. People unable to function due to the effects of narcotics finally functioning because they were able to eliminate them. An elderly gentleman that was hardly able to walk due to diabetic neuropathy finally walking without issues due to cannabis. No other medications helped him. Cancer patients eating instead of wasting away, people that have eliminated the need to take multiple medications (which has been proven to increase the likelihood of side effects) by switching to cannabis, and I could go on and on. Cannabis has been proven to be beneficial for a multitude of medical ailments and any bills regarding the support of medical marijuana in this state, especially those that provide an easier means for patients to acquire or grow their medicine, should definitely be encouraged to become law.

At this time I am also asking and encouraging you to oppose HB 1635.

Mahalo and Aloha,
Bill Cox

From: Thomas Jones [tomjones@reihawaii.com]
Sent: Tuesday, February 03, 2009 11:01 PM
To: PBStestimony
Subject: Testimony In Support of HB1192

February 3, 2009

COMMITTEE ON PUBLIC SAFETY
Rep. Faye P. Hanohano, Chair
Rep. Henry J.C. Aquino, Vice Chair

COMMITTEE ON HUMAN SERVICES
Rep. John M. Mizuno, Chair
Rep. Tom Brower, Vice Chair

COMMITTEE ON HEALTH
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

Committee Chairs, Vice Chairs and Committee Members,

RE: Testimony in Support of HB1192

The possession of marijuana for personal use should not constitute a criminal act. Marijuana use is not as dangerous to individuals or the general public as is the consumption of alcohol. It is certainly less addictive and problematic than meth-amphetamine. While those who use harder drugs may have smoked marijuana, marijuana use is no more likely to lead to harder drug use than pre-marital sex is likely to lead to prostitution.

The amount of general fund monies and law enforcement effort expended on enforcing existing marijuana laws is disproportionate to the possible negative impact our community. Our federal, state and local law enforcement officers should be spending their time on addressing more serious problems. It is high time that our elected officials change drug laws and make the punishment fit the crime. The current generation of legislators vested with the responsibility of determining the Hawaii Statutes has a better understanding of the true impact of the use of marijuana than any previous generation. Decriminalizing the personal use of marijuana is simply balancing the seriousness of the behavior with the consequence.

Respectfully,

Tom Jones
East Oahu

From: Matt Rifkin [mattrifkin28@gmail.com]
Sent: Tuesday, February 03, 2009 6:08 PM
To: PBStestimony
Subject: Committee hearing on February 5th regarding medical marijuana legislation

Follow Up Flag: Follow up
Flag Status: Flagged

Aloha to the Public Safety Committee members....

I am a medical marijuana patient on the Big Island, and I would like to add my comments to the record for a variety of bills that have been proposed....

HB 1192 - Civil penalties for possession of marijuana - SUPPORT

The voters of the county of Hawaii passed a "Lowest Law Enforcement Priority" bill in November 2008, and I feel that this should be extended state wide. I do not feel that possession of small amounts of marijuana merits jail time.

HB 1191 - Medical Marijuana Distribution System - SUPPORT

Growing medical marijuana is not easy, and many patients are unable to do. Having a secure location where plants can be safely grown is a far better alternative than being forced to purchase medicine from the illegal black market. Increasing the number of plants and quantity of dried, usable medicine is also a good idea, as each patient has their own unique needs.

HB 226 - Medical Marijuana - SUPPORT

Removing the "location of marijuana" from the ID card is a good idea. Protecting sensitive information, such as a patient's qualifying condition, is also important. Law enforcement does not need to know the specific illness of a patient, only that the patient is legally allowed to possess and grow medical marijuana.

HB 1194 - Medical Marijuana - OPPOSE UNLESS AMENDED

I support moving the medical marijuana program from the Narcotics Enforcement Division to the Department of Health. It makes sense for the Health Department to administer this program. I think a state wide distribution system is an excellent idea, but it should not be the only option for a patient. The patient (or caregiver) should be allowed to grow medical marijuana too. Many patients are on a fixed income, and raising the application fee from \$25 to \$50 could be a hardship for such people.

HB 967 - Medical Marijuana - OPPOSE UNLESS AMENDED

Law enforcement has no need of being given information about caregivers on a weekly basis. If illegal activities take place, there are penalties already in place. Raising the application fee during these difficult times from \$25 to \$50 could be a hardship for many patients.

HB 1635 Controlled Substances, Medical Marijuana - STRONGLY OPPOSE

Qualifying Conditions should NOT be reduced or limited, they should be expanded. There are already criminal penalties for violating Hawaii's medical marijuana, we don't need more. Educating the police force on what the law is and having them stop arresting patients is more important.

Respectfully submitted,
Matthew Rifkin
HC 1, Box 4078
Keeau, HI 96749

I, Matthew Simmons, UH School of Social Work Student, support HB 1192.

Committee on Public Safety

Thursday February 5, 2009 @ 5:00 pm

I support HB 1192, especially with the provision of minors found guilty in court attending a drug awareness program

"The available evidence suggests that removal of the prohibition against possession itself (decriminalization) does not increase cannabis use. ... This prohibition inflicts harms directly and is costly. Unless it can be shown that the removal of criminal penalties will increase use of other harmful drugs ... it is difficult to see what society gains."

Evaluating alternative cannabis regimes. *British Journal of Psychiatry.* February 2001.

Findings from dozens of government-commissioned and academic studies published over the past 25 years overwhelmingly affirm that liberalizing marijuana penalties *does not* lead to an increase in marijuana consumption or affect adolescent attitudes toward drug use. Since 1973, 12 state legislatures -- Alaska, California, Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio and Oregon -- have enacted versions of marijuana decriminalization. In each of these states, marijuana users no longer face jail time (nor in most cases, arrest or criminal records) for the possession or use of small amounts of marijuana. Internationally, many states and nations have enacted similar policies.

The studies, both in the United States and internationally, on these facts are easily attainable through electronic databases. It is my hope that the time, effort, & money spent on the prohibition of marijuana may be used more effectively and efficiently.

Testimony of Michael Foley
University of Hawaii at Manoa
tel: 808-281-7043 e-mail: mfoley@hawaii.edu

In support of **HB 1192**, HB's 1191 and 226,
Opposed to HB's 1194 and 967 unless amended,
And strongly opposed to HB 1635.

Public Safety Committee, Human Services Committee, Health Committee

February 5, 2009 at 5:00 p.m.

Aloha members of the Committee:

My name is Michael Foley. I am from Maui and currently a full-time graduate student at the University of Hawaii at Manoa where I study biomass renewable energy. Last year, while conducting research on how to sustainably produce energy from agriculture in Hawaii, I began looking into the marijuana issue.

Having read the findings of numerous studies published in respectable science, engineering and medical journals, I am taken by the miraculous nature of the cannabis plant. Not only can this fast growing hardy plant be used to create a host of sustainable non-toxic products from fuel to plastics to lumber, but its flowers have also been proven to provide numerous medical benefits to human beings.

In this time of global change, it is important to reform public policies to allow our society to evolve. Recent polls by news media organizations have shown that an overwhelmingly majority of the Americans support the decriminalization of cannabis. With a well-informed logic, and the deepest respect and Aloha for the people and lands of Hawaii, I support any change to public policy that will bring our society closer to harnessing the full potential of the cannabis plant. It is with this perspective, that I:

- Support **HB 1192**, which would make possession of less than an ounce of marijuana a citable offense punishable by a \$100 fine;
- Support HB's 1191 and 226, which would improve Hawaii's medical marijuana program;
- Oppose HB's 1194 and 967 unless amended so that patients or a caregiver can grow medical marijuana in addition to having the option of obtaining it from state-registered organizations. The law should allow patients to obtain their medications in the most economical and convenient way possible.
- Strongly oppose HB 1635, which would place unnecessary restrictions on medical cannabis program participants and limit qualifying conditions to cancer,

glaucoma, and HIV/AIDS. Medical doctors are the experts on the benefits of cannabis treatment and they should not be limited from prescribing it for a condition that it will treat.

Please take the time to question your previous assumptions about marijuana and be open to learning new information. It is time for us to accept and harness all the benefits that the cannabis plant has to offer. Mahalo for your consideration.

With Aloha,

Michael Foley
Research Assistant
University of Hawaii at Manoa
4477 Kahala Ave.
Honolulu, HI 96816
808-281-7043

From: lionel [lionel@cruzio.com]
Sent: Thursday, February 05, 2009 11:13 AM
To: PBStestimony
Subject: HB 1191, 1192, 226, 1194, 1635 and 967

Aloha,

Please support HB 1192, which would make possession of less than an ounce of marijuana a citable offense punishable by a \$100 (one hundred dollar) fine.

I also support HB 1191 and 226, which would improve Hawaii's medical marijuana program. HB's 1194 and 967 need to be amended so that they improve the state's medical marijuana program, and I strongly oppose HB 1635, which would place unnecessary and arbitrary restrictions on program participants and limit qualifying conditions to cancer, glaucoma and HIV/AIDS.

HB 1192

SUPPORT

Possessing small amounts of cannabis should not in and of itself, something that warrants jail time.

Arresting people for possession of cannabis saddles them with a damaging criminal record that can make it impossible for otherwise law abiding citizens to obtain a job, housing or student loans.

Laws and policies should never cause more harm than that which they seek to regulate and control.

Massachusetts, along with eleven other states, has already passed laws that make the possession of small amounts of cannabis a citable offense. State legislatures in Connecticut, Texas, Vermont and Washington are currently considering bills that would do the same.

HB 1191

SUPPORT

Patients who cannot grow for themselves need help producing enough medicine to keep them adequately supplied. Allowing state-registered growers to serve several patients at once is smart because it creates an alternate source of medicine that patients can rely on when they need to.

Patients shouldn't have to resort to the unreliable and often dangerous criminal market to get their medicine - they should be able to get it from an organization like those HB 1191 establishes.

HB 226

SUPPORT

Doing away with the mature/immature distinction will make it much easier for patients and police to determine who is within the bounds of the law and who is not.

Allowing state registered caregivers to grow for up to five patients is a good idea because it allows for growers to serve the needs of several patients at once, and in one place. Also, growing several marijuana plants is often easier than growing only a couple; plus, it enables caregivers to better account for unseen problems, such as plant disease, insects, or a power outage that can wipe out an entire yield of medicine.

Protecting sensitive information like a patients qualifying condition is the right thing to do. Law enforcement officers do not need to know anything about a medical marijuana patient other than whether or not they are legal.

HB 1194

OPPOSE UNLESS AMENDED

Transferring the medical marijuana program from the department of public safety to the department of public health makes sense because the department of health is better equipped to deal with health issues and should be the agency responsible for handling confidential patient information.

Just this past June, the public safety department's Narcotic Enforcement Division (NED) mistakenly released the names and personal information of 4,200 patients to the Hawaii Tribune-Herald. This was a huge breach of confidentiality that resulted in an official apology from NED to patients, along with instructions for patients to take necessary precautions to protect any information NED may have released.

Although establishing a state distribution system is a good way to improve patient access to medicine, it should not be the only source of medicine. Patients or a caregiver should be allowed to grow medical marijuana in addition to state-registered organizations.

Many patients are on fixed income, and increasing the application fee from \$25 to \$50 will be a financial hardship for many.

HB 967

OPPOSE UNLESS AMENDED

Transferring the medical marijuana program from the department of public safety to the department of public health makes sense because the department of health is better equipped to deal with health issues and should be the agency responsible for handling confidential patient information.

Although creating an advisory board to review and approve additional qualifying conditions and develop a distribution system to provide medical marijuana to patients is a good idea, law enforcement should have no interest in receiving information about caregivers on a weekly basis unless a caregiver is engaging in illegal activity, for which there are already penalties established.

Many patients are on fixed income, and increasing the application fee from \$25 to \$50 will be a financial hardship for many.

HB1635

OPPOSE

There are already criminal penalties for violating Hawaii's marijuana laws - we do not need more.

Requiring a physician to physically examine a terminally ill cancer patient just so that patient can continue to use medical marijuana does not make sense and is unnecessary.

We should be looking to expand conditions that qualify patients for Hawaii's medical marijuana program, not limiting them

The government of Israel and numerous independent studies have established that marijuana consumption prevents conditions and offers protection from including but not limited to, dementia, stoke, brain damage from trauma or stroke, degenerative nervous disorders, cancers and also extends life.

The Canadian Broadcast Corporation recently aired a two hour special entitled, "Run From The Cure, the Rick Simpson Story". CBC documents that Mr. Simpson has cured, with doctor supervision, dozens of people in his community of melanoma's and other cancers, as well as diabetes using a potent marijuana oil.

According to the CBC, manufacture of Mr. Simpson's oil requires one pound of cannabis flowers per one ounce of oil. Patients require one ounce of oil per month.

These realities should play a role in the crafting and implementation of intelligent and humane medical marijuana policy.

Aloha,
Lee Eisenstein
Hawaii

From: Pam Lichy [pamelalichy@gmail.com]
Sent: Wednesday, February 04, 2009 10:05 AM
To: PBStestimony
Subject: testimony for 2/5, 5 p.m. hearing re HB 1192

TO: HOUSE COMMITTEES ON PUBLIC SAFETY & HUMAN SERVICES

FROM: PAMELA LICHTY, MPH, PRESIDENT, DRUG POLICY ACTION GROUP

RE: HB1192 RELATING TO MARIJUANA

DATE: FEBRUARY 5, 2009

Aloha, Chairs Hanohano and Mizuno and members of the Committee on Public Safety and the Committee on Human Services. First of all thank you very much for scheduling this hearing today; I'm very sorry I could not be there in person since I'm currently on the mainland. My apologies also for the appearance of this testimony.

HB 1192 calls for the a change in our state's marijuana laws to make the possession of less than one ounce of the substance a civil penalty rather than petty misdemeanor. Although the current law may not seem unduly harsh, it does constitute a criminal violation with a potential of a \$1000 fine and a year in jail. For young people in particular it would burden them with a criminal record causing potential difficulty in acquiring a federal college loan, a future job or possible housing difficulties.

A study done for our sister organization, the Drug Policy Forum of Hawai'i, indicates that many thousands of dollars could be saved each year by changing this penalty to a civil violation similar to a parking ticket. There are now some 12 states which have decriminalized marijuana and which have experienced no increase in usage. In addition 5 other state legislatures are actively considering such a law at this time: Connecticut, New Hampshire, Texas, Vermont and Washington. In these times of stringent budget cuts this would be a relatively simply cost cutting measure and one which research indicates would have little or no effect on patterns of use.

I would suggest, however, that the drug awareness program which this measure would mandate for offenders under the age of 18, would likely offset any savings generated by amending the penalty for minor possession. In our view this is a "feel good" provision designed to ward off criticism and is likely duplicative of other prevention/education programs which already exist. I

We strongly suggest that you move this bill forward and respectfully ask you to delete the provisions calling for the drug awareness program. Thank you again for scheduling this bill for hearing and for the opportunity to testify.

Pamela G. Lichy, MPH
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