



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1058, H.D. 2, RELATING TO CONTROLLED SUBSTANCES.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Monday, April 6, 2009 **TIME:** 4:00 PM

**LOCATION:** State Capitol, Room 308

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

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Chair Oshiro and Members of the Committee:

The Department of the Attorney General opposes Part I of this bill.

Part I of this bill would convene a task force coordinated by the Attorney General to review the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and public safety. The bill defines "minor drug possession offenders" as persons charged with a class B or C felony drug possession offense. The bill defines "diversion" as placement of the offender into drug treatment in lieu of charging the offender, or allowing the offender to plead to a misdemeanor offense and be placed in treatment.

This project would require significant resources and expertise, yet the bill provides no funding. Given the current fiscal difficulties, it would not be prudent to undertake this project at this time.

Moreover, the purpose of the project is unclear. The stated purpose is to review the impact of diversion of drug offenders into treatment programs. But many forms of diversion are already being used for class B and C drug offenders, including (1) Drug Court; (2) first-

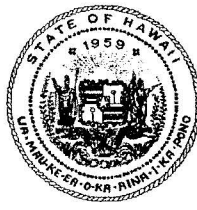
time drug offender sentencing under section 706-622.5, Hawaii Revised Statutes (HRS), which results in probation, treatment, and possible expungment of the conviction record; (3) deferred pleas under chapter 853, HRS, which do not result in convictions; and (4) conditional discharge under section 712-1255, HRS, which may result in dismissal of the charge without an adjudication of guilt.

With respect to the proposal that felony offenders plead to a misdemeanor offense and undergo treatment, it is a concern that a misdemeanor can only result in a six-month period of probation. Six months generally is not an adequate period for drug treatment.

Finally, we are concerned that B and C felony drug offenses are characterized in this bill as "minor" offenses.

We respectfully request that Part I be deleted from this bill.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
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**CLAYTON A. FRANK**  
DIRECTOR

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**TOMMY JOHNSON**  
Deputy Director  
Corrections

**JAMES L. PROPOTNICK**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1058 SD2 HD1  
BILL FOR AN ACT RELATING TO  
CONTROLLED SUBSTANCES  
Clayton A. Frank, Director  
Department of Public Safety

Committee on Finance  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Monday, April 6, 2009, 4:00 PM  
State Capitol, Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) does not support Parts 2 and 3 of Senate Bill 1058 SD2 HD1. Part 2 would establish within PSD, a medical marijuana task force consisting of 8 designated individuals, to review Hawaii's Medical Use of Marijuana program, "perform any other function necessary as the task force deems appropriate", as well as to submit a report to the legislature to include statutory and rule changes.

Part 3 of Senate Bill 1058 SD2 HD1 requires PSD to create a Salvia Divinorum task force consisting 6 designated individuals to review the effects of salvia divinorum on adults and minors, and recommend appropriate legislation relating the sale of this drug. PSD's Narcotics Enforcement Division (NED) and the Federal Drug Enforcement Administration (DEA) are already closely monitoring this substance. Under the provisions of section 329-11, PSD has the authority to emergency schedule Salvia Divinorum as a controlled substance. As previously stated, NED is already working with

the county police departments, the DEA and the Department of Health Alcohol and Drug Abuse Division in closely monitoring this drug to determine if it should be scheduled as a controlled substance.

Both of the proposed taskforces would require the Department to expend significant financial resources and manpower, however, Senate Bill 1058 SD2 HD1 does not provide any funding or positions to accomplish the requirements of this measure.

In addition, several of the proposed functions of the medical marijuana task force seem to be aimed at ways to circumvent federal law. The use of marijuana, even medical marijuana, is still illegal under federal law. Until that law is changed, it is inappropriate for the State of Hawaii law enforcement agencies to recommend ways to maintain, transport, or increase the use of marijuana.

Finally, given the state's current fiscal situation it would be inappropriate to undertake this project at this time. The Department will continue its research into the evaluation of the substance "Salvia Divinorum" and make a recommendation as to proposed legislation relating to a determination as to whether this substances should be designated a controlled substances as required under section 329-11 HRS.

In summary the Department of Public Safety strongly opposes Senate Bill 1058 SD2 HD1 as written.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE  
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**THE HONORABLE MARCUS OSHIRO, CHAIR  
HOUSE COMMITTEE ON FINANCE**

Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

April 6, 2009

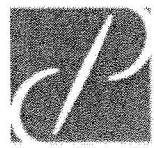
**RE: S.B. 1058, S.D. 2, H.D. 1; RELATING TO CONTROLLED SUBSTANCES.**

Chair Oshiro and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to Part I of S.B. 1058, S.D. 2, H.D. 1.

The purpose of Part I of S.B. 1058, S.D. 2, H.D. 1 is to convene a task force to review the impact diversion of minor drug offenders into drug treatment would have on the criminal justice system, drug treatment programs and public safety. Part I of S.B. 1058, S.D. 2, H.D. 1 defines "minor drug offenders" to be persons charged with a class B or C felony drug possession offense. The bill further proposes that the "minor drug offender" be allowed to plead to a misdemeanor and be placed in treatment in lieu of imprisonment.

We oppose this bill since we believe that the concept to be studied by the task force will not assist persons to enter and remain in drug treatment. First of all, probation for a misdemeanor offense can only be for a maximum period of six months, which will generally be insufficient to get into and complete drug treatment. In contrast, probation for a class B or C felony is for a maximum period of five years which allows for sufficient time for defendants to get into and complete drug treatment programs and obtain supervision to assist in maintaining sobriety. In addition, we observe that are multiple avenues of diversion already extant in the criminal justice system that are available to class B and C drug addicted offenders; these include Drug Court, drug treatment as a condition of probation or parole, and mandated probation with drug treatment under Hawaii Revised Statutes sections 706-622.5 and 706-622.9.

For these reasons, we feel that conceptual basis of the task force is flawed and we therefore respectfully oppose the passage of Part I of S.B. 1058, S.D. 2, H.D. 1. Thank you for the opportunity to testify.



the  
**Drug Policy  
Forum**  
o f h a w a i ' i

April 6, 2009

To: Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair and  
Members of the Committee on Finance

From: Jeanne Y. Ohta, Executive Director

RE: SB 1058 SD2 HD1 Relating to Controlled Substances  
Hearing: April 6, 2009, 4:00 p.m., Conf. Room 308

Position: SUPPORT

Thank you for this opportunity to provide testimony in support of SB 1058 SD2. DPFH is in general support of this measure but provides suggestions on amendments.

**Diversion Study**

Part I directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level and felony drug offenders out of the criminal justice system into treatment.

Since 1993 the Drug Policy Forum of Hawai'i has advocated for safe, responsible, humane, and effective drug policies. DPFH supports using a public health approach to the issue of drug use, rather than continuing to resolve drug abuse problems through the criminal justice system which results in severe prison overcrowding and warehousing of Hawai'i prisoners on the U.S. continent.

A study would help determine the treatment needs under a diversion program; how costs would change for law enforcement, prosecution, judicial and correctional resources.

Current drug policies, as applied and enforced, have taken a particularly hard toll on economically disadvantaged communities through the disproportionate incarceration of Native Hawaiians and the poor, disrupting families and interfering with or denying educational, employment and housing opportunities, thereby exacerbating the social conditions that gave rise to the drug abuse in the first place.

It is time that an independent study be conducted so that policy makers can determine where to shift public resources and how diversion of low-level and felony drug offenders into treatment programs can impact the criminal justice system.

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**Salvia Divinorum Taskforce is unnecessary**

Part III establishes a taskforce to review the effects of salvia divinorum, research what other states have done regarding salvia, and make recommendations on appropriate legislation on its sale and use. We do not support the establishment of this taskforce. There are efforts to criminalize the sale and possession of salvia because of its fad status on the internet. However, there is no scientific evidence to justify its placement on any of the controlled substance schedules. There are no studies suggesting that salvia is addictive or its users prone to overdose or abuse, the criteria for adding drugs to the controlled substances schedule.

The Drug Enforcement Administration (DEA) has spent more than a decade studying whether to add salvia to its list of controlled substances and has not done so. Bertha Madras, a deputy director of the Office of National Drug Control Policy (ONDCP) said that “there is an absence of good hard cold information” to schedule salvia.

There have been no documented cases of fatal or near fatal incidences involving the drug. Reports of salvia-related emergency room admissions are virtually non-existent, likely because its effects typically vanish in a few minutes.

**Medical Marijuana Taskforce**

Part II of this measure sets up a taskforce to review issues relating to the medical marijuana program. We have suggestions on the makeup of the taskforce and the scope of the taskforce’s work. We hope that a balanced taskforce can be setup with members who have knowledge of the medical marijuana program.

We suggest that the taskforce consist of at least the following members:

- At least one patient currently registered with the program from Oahu
- A caregiver currently registered with the program
- A physician currently participating in the program
- A representative of the public defender’s office
- A representative of a medical marijuana patients’ advocacy group
- A representative of a medical marijuana advocacy group from Oahu
- A representative of a medical marijuana advocacy group from the neighbor islands

The scope of the taskforce should emphasize the difficulties patients have of obtaining marijuana from a legal source. Once patients receive their medical marijuana cards, the most often asked question is where do I get marijuana? Many are dismayed at the thought that they must go to the criminal market. If they decide to grow their own plants which is the main focus of the program, then they have a problem obtaining starter clones or seeds.

Other concerns that patients have are:

- Inadequate number of plants and dried marijuana permitted
- The confusion of whether they can fly on interisland airlines with medical marijuana
- Finding a caregiver
- Finding a physician

As the federal policy is changing significantly and the federal government has signaled that it will not interfere with state medical marijuana programs, it is the ideal time for a taskforce to study different distribution systems and to make recommendations so that the current compassionate-care program can be improved to meet patients’ needs.





A sister organization of the Drug Policy Forum of Hawai'i

TO: HOUSE COMMITTEE ON FINANCE  
FROM: PAMELA LICHTY, MPH, PRESIDENT  
DATE: APRIL 6, 2009; 4 P.M., ROOM 308  
RE: SB 1058 SD, HD1 RELATING TO CONTROLLED SUBSTANCES - **STRONG SUPPORT**

The Drug Policy Action Group supports the intent of this bill, in large part, but has some suggested amendments to PART II.

**The Drug Policy Action Group supports the existing language of this bill in PART I** which would direct the Attorney General to coordinate a review of the impact of diverting minor drug offenders out of the criminal justice system into treatment. In these constrained financial times we should explore every possible means of saving the state money, improving recidivism rates by addressing underlying drug and alcohol problems, and finally acting smart on drugs and crime.

The approach described in the SD 2 of this bill has been recently adapted by many other states including Texas and Alabama. Research elsewhere has demonstrated that diversion programs for the kinds of offenses enumerated here make a great deal of economic and social sense and do not negatively impact public safety.

Having done research on similar issues, I suspect some of the data may be hard to come by, but it is worth the difficulty if such a study could point the way for Hawai'i to move forward in reducing our prison population - especially those housed on the mainland. Diversion would place offenders in the least restrictive environment where they are assisted with their problems and stand a far better chance of becoming productive and successful members of our communities. Perhaps even more significantly, in today's dismal economic milieu, the kinds of diversion programs the AG is requested to examine have the potential for saving our state hundreds of thousands of dollars and utilizing those dollars for programs with far more productive outcomes than incarceration.

**We think that the Task Force in PART III is unnecessary.** There are moves across the U.S. to criminalize the substance known as Salvia Divinorum. Making this substance, a mild hallucinogen originating in Mexico, illegal will only strengthen its appeal for young people. Scientists believe that this substance may have some beneficial and socially useful effects. Similarly MDMA, aka ecstasy, was showing great promise as a tool for psychologists treating PTSD and other psychiatric conditions before it was criminalized.

Research on medical cannabis has been blocked for many years because of its inappropriate legal classification. Dr. Bertha Madras of the Drug Czar's office has said there is "an absence of good hard cold information" to justify criminalizing this herb. Interestingly the DEA has studied the substance for more than a decade, but has not added it to its list of controlled substances. There are no studies suggesting that Salvia Divinorum is addictive or that its users are prove to overdose or abuse nor are there any recorded incidences of fatal or near fatal episodes. In short this task force is unnecessary and wasteful of scarce resources..

**The Drug Policy Action Group does have substantive comments about PART II of this measure** which sets up a task force to "review issues relating to the medical marijuana program." This part of this bill is extremely important because all of this Session's substantive bills for improving the state's medical marijuana program have stalled. Things are changing very rapidly on this issue as the Committee is undoubtedly aware. Attorney General Eric Holder made statements in February and then more pointedly in late March saying that the Federal government will suspend its interference with states that have medical marijuana laws unless both state and federal laws are being violated (**see attachment**). These new policy pronouncements should embolden the thirteen medical marijuana states to strengthen their programs to better suit the needs of their residents.

We have some comments about both the make-up of the Task Force and the scope of its deliberations. As we are all aware, the representatives on a task force play a critical role in shaping its findings. It would be good if this task force were balanced among government representatives; those who have direct experience with the program such as physicians, patients, and caregivers; and advocacy groups with policy experience in this area who are aware of what other jurisdictions are doing.

Our recommendations for the task force would include the same representatives in the bill as in Part II, Section 3 (b), (1) – (4) of the bill. In addition to these, we would suggest:

- (5) An attorney versed in legal criminal defense such as someone from the Office of the Public Defender or an attorney in private practice;
- (6) A licensed physician (per HRS chapter 453) who is knowledgeable about medical marijuana and is participating in the program.
- (7) At least one patient who is registered with the program;
- (8) A caregiver who is registered with the program;
- (9) A representative from a Neighbor Island medical marijuana advocacy group;
- (10) A representative from a state-wide patient membership group;
- (11) A member of a drug policy law reform organization,

(12) A legislator appointed by the Speaker of the House ; and

(13) A legislator appointed by the President of the Senate.

We also have some recommendations as to the scope of the task force's deliberations. We concur with the language in the bill about what the task force shall examine, but would like to see far more emphasis on the difficulties of obtaining legal access to cannabis for those registered with the program.

As an advocacy group for those using, or seeking to use the program, we get calls and emails daily from patients, caregivers, and (less often) from physicians. The problems they identify can be broken out as follows:

1. No legal access to seeds, starter plants, or useable medical marijuana (by far the biggest concern)
2. Inadequate number of plants permitted (with confusing mature/immature designations)
3. An inadequate amount of useable marijuana permitted.
4. Difficulty in acquiring the services of a caregiver
5. Difficulty in finding a physician to certify eligibility.
6. Lack of clarity about the legality of interisland travel with medical marijuana.

We would be pleased to lend our expertise to such a study in the hopes that in the 2010 session, in light of ongoing improvements vis a vis the federal situation, improvements to the eight year old program could finally be instituted. We believe that the task force should be empowered to bring in outside experts to aid them in their deliberations including officials or advocates from New Mexico, Rhode Island, and other states who are ahead of Hawai'i in designing and implementing an authorized growing and distribution system. The idea of a "summit meeting" of knowledgeable parties during the Interim has been discussed and we would be pleased to assist in this effort.

The 4,800 legally registered patients in the state have been struggling with an unworkable, distinctly non user-friendly program, and they deserve something better. This body saw fit to pass this compassionate legislation in 2000. We urge you now to take action to make it truly workable for the people who are suffering, who rely on the program, and who need your kokua to make it work as it was intended to.

*The Drug Policy Action Group is a sister organization to the Drug Policy Forum of Hawai'i. Since 1993 DPFH has been Hawaii's leading organization dedicated to promoting responsible, effective, and research-based drug policies.*

**Drug Policy Action Group** · P.O. Box 61233 · Honolulu, HI 96839  
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# COMMUNITY ALLIANCE ON PRISONS

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## REALLY LATE TESTIMONY, SORRY!

### COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Monday, April 6, 2009

4:00 PM

Room 308

### AGENDA #3

### STRONG SUPPORT

**SB 1058 SD2,HD1 - AG Study on Diverting Low Level Drug Offenders**

**[FINTestimony@capitol.hawaii.gov](mailto:FINTestimony@capitol.hawaii.gov)**

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee!

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.

SB 1058 SD2, HD1 directs the Attorney General to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment; establishes a task force to examine issues relating to medical marijuana patients and current medical marijuana laws; establishes a task force to examine the effects of salvia divinorum.

Community Alliance is in strong support of SB 1058 SD2, HD1.

In 2002, the Legislature passed Act 161 in 2002, which diverted first-time, nonviolent drug lawbreakers to treatment instead of prison. The opposition came from the police and prosecutors (as it has in every jurisdiction where similar laws passed) who said that first timers are never incarcerated. A cursory review of the files at Halawa by a staffer at Public Safety, however, found 48 first-time, nonviolent drug lawbreakers incarcerated there. The prosecutor's response? They shouldn't be there!

In 2004, Act 161 was amended to make it discretionary, not mandatory, to divert first-time nonviolent drug offenders to treatment. (Act 44 - HB 2003 HD1,SD1). Act 44 finally provided funding, but it changed the purpose of the law. It is not unusual today to meet many to meet many first timers in prison - most for drugs.

The rising costs of prison and the pitiful outcomes Hawai'i is experiencing demand that we rethink what we are doing and explore other options. During times of fiscal austerity businesses try a number of things to cut costs and improve efficiency - getting a bigger bang for the buck, so to speak. In this same vein, the state can look upon these trying times as an opportunity to take a closer look at what we are doing, how we are doing it, and to explore better, more efficient and cost-effective ways of addressing low-level drug lawbreakers. My Mom used to say that necessity is the mother of invention, and she was right. These austere economic times call for creative solutions.

A study, if it is independent, will take an unbiased look at diverting nonviolent drug lawbreakers and do a cost-benefit analysis of our current system and projections for law changes. This would be a great use of the Sentencing Simulation Model that is a tool for legislators to see the impact of legislation before it becomes law.

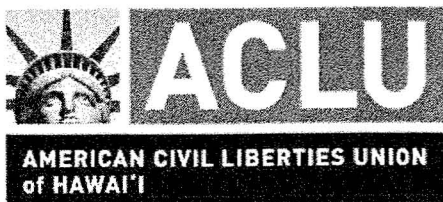
We support the task force to review Hawai'i's medical marijuana program to address the barriers and the issues surrounding medical marijuana that have been raised by patients.

We believe the salvia divinorum task force is unnecessary since a cursory search of this herb (sage) reveals that its euphoric properties last for 5 minutes to 1.5 hours, at the most. We have never heard of this being a problem in Hawai'i.

In these lean times, we need to explore every option to promote justice, protect public safety, and preserve precious resources.

Community Alliance on Prisons urges passage of SB 1058 SD2,HD1.

Mahalo for this opportunity to testify.



Via Web

Committee: Committee on Finance

Hearing Date/Time: Monday, April 6, 2009, 4:00 p.m.

Place: Room 308

Re: Testimony of the ACLU of Hawaii in Support of S.B. 1058, SD2, HD1, Relating to Controlled Substances

Dear Chair Oshiro and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.B. 1058, SD2, HD1, which directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice into treatment and establishes a task force to examine issues relating to medical marijuana patients and current medical marijuana laws.

The ACLU of Hawaii supports every effort to develop diversion programs and health-based solutions to individuals with drug addictions. In general, these types of programs are far more cost-effective – and far more effective at reducing recidivism – than incarceration and deserve the Legislature's full support.

The ACLU of Hawaii also supports every effort to improve our medical marijuana program, particularly given the recent decision by the Department of Justice to no longer target medical marijuana patients who are in compliance with state law. The federal government's change in position makes the development of a task force timely and appropriate.

The ACLU of Hawaii does not believe that it is necessary at this time to establish a task force to examine the effects of salvia divinorum.

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.

Thank you for this opportunity to testify.

Sincerely,

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
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Hon. Rep. Oshiro, Chair, FIN Committee  
and Members Thereof  
April 6, 2009  
Page 2 of 2

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

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**FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 06, 2009 7:43 AM  
**To:** FINTestimony  
**Cc:** bmurphy420@msn.com  
**Subject:** Testimony for SB1058 on 4/6/2009 4:00:00 PM

Testimony for FIN 4/6/2009 4:00:00 PM SB1058

Conference room: 308  
Testifier position: comments only  
Testifier will be present: No  
Submitted by: brian Murphy  
Organization: PWT/MCCFDIA  
Address: 71 Baldwin Ave C-3 Paia hawaii 96779  
Phone: 8083443666  
E-mail: bmurphy420@msn.com  
Submitted on: 4/6/2009

Comments:  
SB1058 Hearing Room 308 at 4 p.m. April 6 2009 FIN

I "support SB1058 w/ amendments" or "with reservations";

I "support it w/ amendments" or "with reservations"; The problem has always been NED opposed any and all medical marijuana Bills, so I do not think NED is a good chair of any working group or task force for medical marijuana.

also "with reservations";  
eeding a  
uilding structure for Hydroponic Indoor Growing Facility for the most yield of cannabis per plant], After working with over 1280 local hawaii medical Marijuana users & 20 years of growing. I as has other found that organic in the sun hawaii marijuana is the best in the world, to create a indoor grow operation to supply Hawaii would be very costly. We have the best sun in world to grow anything why grow indoors?

I would like to see the amendments presented by Rep Bertram: Would you support the following amendments to SB1058 SD1

Section

Create a working Group, to report back within 120 days of enactment of SB1058 with a model Farm Plan for the cultivation of medial Marijuana for the over 4000 medical marijuana patients. This Farm Plan will take into account Small Farm Sustainability. This working group will use HB1191 to formulate a Farm Plan. The working group will be made up as followed

- Chair Ag. (1)
- Attorney Gen. Office (1)
- Chair Economic development (1)
- Chair of Finance (1)
- Chair PS (1)
- Chair JUD (1)
- Self Sustainability Group (1)
- Small Farmer Organization ( 1 from each Island)
- Marijuana Researcher/Patient (1)

20 days after enactment of SB1058 this working group will report back with a Model Family Farm Plan

Section III  
Change:



"adequate supply" shall not exceed (three mature) seven marijuana plants(, four immature plants) and one ounce of usable marijuana per mature plant.

To:  
adequate supply" shall not exceed seven marijuana plants and one ounce of usable marijuana per mature plant.

Change:  
1 care giver to one patients.

To:  
five patient one care giver.

These to small changes will make our program more workable until the state threw SB1058 create a workable plan

Much mahalo

Brian J Murphy

HAWAI'I STATE LEGISLATURE

2009 REGULAR SESSION

FINANCE COMMITTEE HEARING

APRIL 6, 2009 ROOM 308

SB1058 SD2 HD1 TO BECOME HD2

**IN STRONG SUPPORT WHEN SWITCHING ADDED AMENDMENT OF A  
MEDICAL CANNABIS COMPASSIONATE CARE TASK FORCE**

**I WILL BE ATTENDING THE COMMITTEE HEARING**

**I REPRESENT MYSELF AND ALL OF THE CLIENTS OF**

**WEST O`AHU HOPE FOR A CURE FOUNDATION (WOHFAC)**

**PREVENTIVE AND COMPASSIONATE CARE CLIENT SERVICES**

Aloha Representative Marcus R. Oshiro, Chair, Representative Marilyn B. Lee Vice Chair,  
and Respected Members of the Finance Committee,

My name is Joseph Rattner and I am the Founder and President of West O`ahu Hope For A  
Cure Foundation. I have been a qualified registered Cannabis Patient in the State of  
Hawai`i since May of 2004. I am humbled again by the opportunity to testify on behalf of all  
HIV/AIDS, Hepatitis and Substance Abuse Patients living in the State of Hawai`i that are  
using the Medical Marijuana (Cannabis) Program that your State allowed to become law in  
the year 2000.

In the 2005 S.C.R. 197 SD1, requested that a Medical Marijuana Task Force be convened  
because of the failing Program that began 5 years earlier. Unfortunately, the composition of  
that Task Force was not as recommended by the Drug Policy Forum, which asked for (4)  
four Qualifying Patients, (3) members from the Drug Policy Forum (which seemed a little  
much) but only 3 representations from Government Agencies like the Department of Public  
Safety (DPS) or the Chief of the Alcohol/Drug Abuse Division of the Department of Health  
(DOH) and a DOH Designee.

Well, within the (21) twenty one page Review by the convening Task Force of 2006 from S.C.R. 197 SD1, is a dissenting view by the only member of the Drug Policy Forum to serve on that Committee, their Executive Director Jeanne Ohta, who was quite discouraged by the result of the almost (1) one year long Task Force, because the people at the table weren't interested in changing anything about the current Hawai'i State law, because there was no sign from the Federal Government that their policy on Medical Cannabis was changing dramatically, and IMMEDIATELY.

I am here today to try and have you all understand, that as a newly formed Not for Profit Agency, specializing in the Compassionate Care of the chronically ill in the State of Hawai'i, we are appalled at the lack of Services relating to Medical Cannabis and are proud to be the first not for profit in Hawai'i who's Mission and Goal is to try and make the lives more comfortable for those with debilitating illnesses.

Life teaches us that you don't repeat the same mistakes twice and expect a different result.

SB 1058 SD2 HD1 was a remarkable Bill, well written and thought out, with minor, if any flaws, when it was introduced by Senator Wil Espero, at the end of January 2009. Senator Espero happens to be my District Senator so I kept well track of all the Bills that came from his Office as a Lead Sponsor. This is one of the major reasons why I didn't want to tack on a Task Force to this Bill because the idea of helping those who are addicted to a controlled substance and into treatment whether it be in house or out patient is in my eyes the only way our future generations learn from the mistakes they made because TREATMENT WORKS AND JAILS DON'T and are costing us way too much money so I fully support SB 1058 SD2 HD1, but not as it is written now.

I submitted to you all on Friday, the proposed HD2 for this Bill which would replace section 2 with what you already have read from LRB. You all as a Committee have been honest and sincere with all of my Family and Foundation members you saw last week when we wanted to attach this Task Force to another Bill.

As you requested, we are here again, hoping that all will be well. I humbly ask that you amend the current SB 1058 SD HD1 and have it replaced with the type of Task Force that should have been convened back in 2005. This is why we need it to be in a Bill, and as direct as possible, when speaking of its makeup, the reasons why there is a new convening Task Force after there was already one back in 2005, and exactly what will be expected of them when reporting back to the 26<sup>th</sup> Legislature in January of 2010.

It is our hopes that when all the right people finally convene (e.g. Patients, Caregivers, Physicians, Government Agency Workers and Not for Profit Agency Representatives) for the right reason we think they will come out with the right conclusion.

That Hawai'i can and should be one of the first few States (since New Mexico began theirs last week) to have a viable Distribution Program for the chronically ill Patients with debilitating illnesses (which will also be re-determined) along with making sure that all Physicians are allowing their Patients to smoke cannabis, for the right reason.

Please don't have the same people convene to discuss the Laws of the land. We have a current Law that just was incomplete by the State of Hawai'i in 2000. Now is our chance at joining with the Federal Government in allowing Hawai'i residents with certain chronic debilitating illnesses, to have complete and total ACCESS to their medicine when recommended by their Physician, never allowing them to have an interrupted time without their medication. Would you?

Mahalo for giving me the opportunity to testify. It has been a pleasure to work with you all.

Peace and Aloha,

Joseph B. Rattner, O. D., CSAC

West O'ahu Hope For A Cure Foundation

Founder and President

Preventive and Compassionate Care Client Services

(808) 685-6702

[jbr@WestOahuHopeForACure.org](mailto:jbr@WestOahuHopeForACure.org)

[www.WestOahuHopeForACure.org](http://www.WestOahuHopeForACure.org)

**Report Title:**

Controlled Substances; Diversion; Treatment

**Description:**

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment. Establishes a Medical Cannabis Compassionate Care Task Force, to examine issues relating to medical cannabis patients, their caregivers, physicians and the current medical cannabis laws. Establishes a task force to examine the effects of salvia divinorum. (SB1058 HD1)

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**S.B. NO.** 1058  
S.D. 2  
H.D. 2  
(proposed)

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# A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

PART I

SECTION 1. (a) The attorney general shall coordinate a review of the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and public safety.

For purposes of this review:

- (1) "Diversion" means placement of the offender into drug treatment either in lieu of charging the offender or

allowing the offender to plead to a misdemeanor and be placed in treatment in lieu of imprisonment; and

- (2) "Minor drug possession offenders" means those accused of felony marijuana possession offenses of any grade and class B or C felony possession offenses involving other drugs.

(b) The review required by subsection (a) shall address the following issues:

- (1) The number of offenders that could be diverted if diversion occurred before charging and the number that could be diverted post-charging;
- (2) The effect of diversion on law enforcement, prosecution, judicial, and correctional resources;
- (3) The type, cost, and availability of treatment services that would be needed under a diversion program; and
- (4) The impact on public safety of diverting minor drug possession offenders and whether the impact could be reduced by, for example, excluding offenders with a history of violent offenses.

(c) The attorney general shall conduct the review required by subsection (a) in consultation with and using the problem-solving abilities of a broad range of public and private stakeholders, including:

- (1) Police;

- (2) Prosecutors;
- (3) Judges and other court officials;
- (4) Corrections administrators;
- (5) Public health experts;
- (6) Drug treatment providers;
- (7) Legal service providers;
- (8) A representative of the office of the public defender;
- (9) A representative of the American Civil Liberties Union of Hawaii;
- (10) A representative of a community advocacy group with at least fifteen years of experience, research, and statistical data to provide to the attorney general; and
- (11) A criminologist or researcher who can analyze the most current statistical data.

SECTION 2. The attorney general shall submit a report of findings and recommendations regarding the review required by this Act no later than twenty days prior to the convening of the regular session of 2010.

## PART II

SECTION 1. The legislature also finds that the State's medical marijuana (cannabis) program, enacted into law in 2000, is a public health program conceived out of concern for the health and welfare of the seriously and chronically ill.

Registration for the program is currently administered by the narcotics enforcement division (NED) of the public safety department (PSD) or the department of public safety (DPS), of which the definitions of their names are equal in every sense, for the purpose of this section.

Many patients, however, are intimidated by the prospect of dealing with a narcotics enforcement agency, and do not apply for certification. Therefore, they do not benefit from the protection from arrest or the threat of arrest by state or county authorities that is offered to those who are certified by the State under this program.

Furthermore, the program's current placement in the narcotics enforcement division is in part responsible for the reluctance of many physicians to certify patients. These physicians are concerned that their written certifications will be reviewed by the same entity that monitors physicians on issues of over-prescribing, "doctor shopping", and similar issues.

**SECTION 2. Medical cannabis task force: [NO (\$)**

**APPROPRIATION REQUEST FOR THIS SECTION AND RELATED SECTIONS BELOW].**

(a) There is to be established within the **department of health (DOH)** the **medical cannabis compassionate care task force.**



(b) The task force shall consist of thirteen (13) members named as follows.

1. Two physicians related in the field of compassionate care and cannabis efficacy,
2. Two state licensed and qualified compassionate caregivers,
3. The President of The Drug Policy Forum or their designee **plus** one selected, state licensed medical cannabis patient,
4. The President of West O`ahu Hope for A Cure Foundation (WOHFAC), or their designee **plus** one selected, state licensed medical cannabis patient,
5. The Director of Americans for Safe Access (ASA), Honolulu Chapter, and their Medical Advisor,
6. The Director of the Narcotics Enforcement Division (NED) of the Public Safety Department (PSD) or their designee.
7. The Director of the Alcohol/Substance Abuse Division of the Department of Health or their designee,
8. One state licensed medical cannabis patient to be selected by the Governor Honorable Linda Lingle, and
9. 2 Co-Chairs, appointed as one (1) qualified person, by the President of the Senate and one (1) qualified person, by the Speaker of the House, that are Hawai`i State residents,

qualified in specific specialty areas of cannabis, such as cultivation, distribution, packaging, processing and dispensing.

(c) The task force shall:

(1) Develop and make recommendations for a distribution system for a truly viable medical cannabis compassionate care program, which would expand the presently needed unmet services not yet provided by Hawai'i's present medical marijuana (cannabis) law, for generally populated geographical areas and remote areas and remote places, which provides for:

(A) Cannabis production facilities within the State of Hawaii housed on secured grounds [possibly empty Prison Land plots just needing a building structure for Hydroponic Indoor Growing Facility for the most yield of cannabis per plant], identifying and defining new debilitating illnesses that benefit from medical cannabis and will be recommended to be added to the present Statute list of illnesses and lastly, identifying the strains necessary in keeping chronically ill patients comfortable and safe, without ever having an interrupted compassionate care service of their monthly medicine (cannabis), which will be secured by the narcotics enforcement division of the Public Safety Department or PSD,

operated by licensed producers; and

(B) Distribution of medical cannabis to qualified patients for medical cannabis compassionate care or their primary caregivers, to take place at locations that are designated by the Narcotics Enforcement Division of the Public Safety Department and that are not within three hundred feet of any school, church, or daycare center;

(1) Review the list of different ailments to qualify patients under Hawai`i State Medical Cannabis Law.

(2) Identify requirements for the licensure of producers and compassionate care cannabis production facilities and make recommendations for licensing procedures;

(3) Identify and discover solutions regarding inter-island travel and the way Hawai`i's cannabis or medicine can have a traveling relationship which becomes defined with The Honolulu International Airport and all flying vehicles as well as all boating or ships containing Patients medical cannabis, within Hawai`i air space and Hawai`i waters;

(4) Submit a report to the legislature no later than twenty days prior to the end of the regular session of 2010 that shall include:

(A) Any issues and concerns relating to the implementation of the medical cannabis compassionate care distribution program;

(B) The total number of licensed producers, qualifying patients, and primary caregivers that will utilize the program; provided that no personal, identifying information of producers, qualifying patients, or primary caregivers is included;

(C) An evaluation of the effectiveness of the program in providing medical cannabis compassionate care in general, and as well to individuals in remote places and remote areas, who are suffering from any chronic and debilitating illnesses;

(D) A distribution plan that provides for the safe, remote and effective distribution of medical cannabis to participants of the State's medical cannabis compassionate care program; and

(E) Any recommendations, including proposed legislation, to improve the provisions of the medical cannabis compassionate care program will be reported by written review to the 26<sup>th</sup> Legislature, no later than twenty days prior to beginning of the 2010 Regular Session.

(F) The Task Force shall cease to exist, by no later than June 30<sup>th</sup>, 2010, continuing to work with the Legislators on the recommendations and proposed legislation.

### PART III

SECTION 4. (a) The legislature finds that salvia divinorum, otherwise known as "diviner's sage" or "magic mint,"

is not regulated in Hawaii. The legislature further notes that several countries, such as Australia, Belgium, Denmark, Estonia, Finland, Italy, Japan, Spain, and Sweden have passed regulatory laws on salvia divinorum or its primary psychoactive constituent, salvinorin A. In the United States, California, Delaware, Florida, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Mississippi, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Virginia regulate salvia divinorum, with approaches ranging from classification as a Schedule I controlled substance to placing restrictions on its sale. The legislature finds that possible regulation of salvia divinorum and its primary psychoactive constituent, salvinorin A, is worthy of formal examination by the State.

(b) There is established within the department of public safety for administrative purposes a salvia divinorum task force. The purpose of the salvia divinorum task force shall be to review the effects of salvia divinorum and its primary psychoactive constituent, salvinorin A. The director of public safety shall be responsible for administering the work of the salvia divinorum task force and submitting a report to the legislature. The salvia divinorum task force shall:

- (1) Research the uses and effects of salvia divinorum and salvinorin A on adults and minors;

- (2) Research all other states' legislation relating to salvia divinorum and salvinorin A;
- (3) Recommend appropriate legislation resulting from its findings to address the sale and use of salvia divinorum and salvinorin A in Hawaii; and
- (4) Address other issues and perform any other function necessary as the task force deems appropriate, relating to salvia divinorum or salvinorin A.

(c) The members of the salvia divinorum task force shall consist of the following members:

- (1) The director of public safety or the director's designee;
- (2) The director of health or the director's designee;
- (3) The administrative director of the judiciary or the administrative director's designee;
- (4) The attorney general or the attorney general's designee;
- (5) The president of the Hawaii State Bar Association or the president's designee; and
- (6) The president of the Drug Policy Forum of Hawaii or the president's designee.

(d) The salvia divinorum task force shall submit a report of its findings and recommendations, including any proposed

legislation and rules, no later than twenty days prior to the convening of the regular session of 2010.

(e) The salvia divinorum task force shall cease to exist on June 30, 2010.

#### PART IV

SECTION 5. This Act shall take effect on January 1, 2046.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, April 05, 2009 3:50 PM  
**To:** FINTestimony  
**Cc:** randalcookhi@aol.com  
**Subject:** Testimony for SB1058 on 4/6/2009 4:00:00 PM

Testimony for FIN 4/6/2009 4:00:00 PM SB1058

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Randal Cook  
Organization: Individual  
Address: 44-372 Kaneohe Bay Dr. Kaneohe, Hi  
Phone: 808 253-0718  
E-mail: randalcookhi@aol.com  
Submitted on: 4/5/2009

**Comments:**

To Whom it may concern,

My name is Randal Cook, a State of Hawaii and California General Contractor who has lived in Kaneohe for the past 7 years and I am a registered Medicinal Marijuana patient.

I was a professional ski racer and a member of the United States Ski Team in my younger years and suffered from several high speed downhill falls. While training in Portillo, Chile for downhill events in the 1972 Sapporo Olympics, my ski tip snapped at 91 mph and I fractured my forehead in 4 places and my helmet shattered.

I have had many other tumbles in the sports world and construction world and will be turning 54 this April 8. I have degenerative disk disease and without medication I sleep at most 4 hours during the night.

Over the years, I have discovered only one primary medication that kills the pain and still allows me to think clearly and productively with out grogginess the next day. This would be the Sativa Strain which should be harvested earlier for higher anti-inflammatory purposes with low cbn count.

The Indica strains are what most chronic cancer patients and sleeping disorder patients use by ingesting at bedtime (recipes with cannabis butter.)

The State of California has Prop 215 as a responsible, viable, and taxable solution to the issues of medicinal marijuana use.

Please consider carefully the opportunities and benefits that Medicinal Marijuana can provide the residents and the State of Hawaii.

Safe Access.

Respectfully,  
Randal Cook



HAWAII STATE LEGISLATURE

2009 REGULAR SESSION

FINANCE COMMITTEE HEARING

APRIL 6, 2009 ROOM 308

SB1058 SD2 HD1 TO BECOME HD2

**IN STRONG SUPPORT WITH ADDED AMMENDMENT**

**I WILL BE ATTENDING THE COMMITTEE HEARING**

**I REPRESENT MYSELF AND ALL THE CLIENTS OF WEST O`AHU HOPE  
FOR A CURE FOUNDATION (WOHFAC)**

**PREVENTIVE AND COMPASSIONATE CARE CLIENT SERVICES**

Aloha Rep. Marcus R. Oshiro Chair, Rep. Marilyn B. Lee Vice Chair, and members of The Finance Committee,

My name is Lila Rattner and I am the Director of the Advisory Board of The West O`ahu Hope For A Cure Foundation. I am writing this testimony in support of SB1058 SD2 HD1 to become HD2 hopefully after hearing. We firmly believe in drug rehabilitation treatment for all drug addicted people. West O`ahu Hope For A Cure Foundation has an ongoing program to get our clients the help that they need in order to become normal healthy individuals again. We also do family counseling and support. We have seen what drug addiction can do to the entire community. Any help that can be obtained in the scenario of the justice system would be the first step on the road back to total recovery.

We are also testifying to change the amendment to SB1058 SD2 HD1 to become HD2 for the Medical Cannabis Compassionate Care Task Force to be established.

The Medical Marijuana “Cannabis” program enacted into law in 2000 has its short falls when it comes to patient’s access to their medications. The state of Hawai`i allowing patients under its Licensing Law allows patients to grow their own Cannabis medication, but does not supply seeds to get the growing started. Many patients are afraid to grow their own medications because the aroma of growing plants endangers their safety by allowing break-ins to their property to occur. They fear for their own safety.

Many patients and Physicians are intimidated by the prospect of dealing with a Narcotics Enforcement Agency for certification, because of the possibility of arrest or threat of arrest by the state or local authorities.

Our organization believes that the current medical marijuana law (cannabis) is incomplete. Although a task force was established in 2005, the composition of the task force resulted in a dissenting view from the Drug Policy Forum of Hawai`i in 2006. The task force was made up of State agencies and attorneys but did not include Physicians, Licensed Patients, and their licensed Caregivers. We also believe that we need to have both The Directors of the Narcotic Enforcement Division (NED) of Public Safety or their designee as well as The Director of Alcohol/Substance Abuse Division of the Department of Health or their designee to finally sit across from one another and settle this matter so that there is no longer this ongoing battle of who does what when it comes to a viable option of how to finally get Medical Cannabis to the patients.

We recommend the name of the task force be changed to THE MEDICAL CANNABIS COMPASSIONATE CARE TASK FORCE.

This Task Force would discuss the development and recommendations for a distribution system for a truly viable medical Cannabis program, to meet the present needed services that have not been provided by the state of Hawai`i under the present Medical Cannabis law.

There will also be on the Task Force physicians to identify and define the debilitating illnesses and identify the different strains necessary to keep chronically ill patients comfortable and safe.

We did not leave out the not for profit groups that have been trying for years to help the patients who are waiting and waiting to finally get relief from their suffering. We have included them in the task force. The President of The Drug Policy Forum or their designee, plus one Licensed Patient, The President of Americans for Safe Access (ASA) or their designee plus their Medical Advisor, and The President of West O'ahu Hope For A Cure (WOHFAC) or their Designee plus one Licensed Patient.

Two (2) Co-Chairs will be appointed as follows: (1) One qualified person, by the President of The Senate, and (1) one qualified person appointed by The Speaker of The House that are Hawai'i State residents.

One State Licensed Medical Cannabis Patient to be selected by the Governor, The Honorable Linda Lingle.

The Task Force will also identify requirements for licensing producers, Compassionate Care Production Facilities, and make recommendations for licensing procedures. We hope to include any proposed legislation and any recommendations to improve a Medical Cannabis Compassionate Care program to be introduced to the 26<sup>th</sup> Legislature in January of 2010.

This task force should be the final solution to end the suffering of the chronically ill patients, and allow the dispensing of their medication to finally be resolved.

Thank you for this opportunity to allow me to testify on behalf of the clients of West O'ahu Hope For a Cure Foundation as well as for myself.

Lila Rattner - Director of the Advisory Board

West O'ahu Hope For a Cure Foundation

Preventive and Compassionate Care Client Services

91-211 Maka'ina Place

Ewa Beach, Hawai'i 96706

(808) 685-6702

**Report Title:**

Controlled Substances; Diversion; Treatment

**Description:**

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment. Establishes a Medical Cannabis Compassionate Care Task Force, to examine issues relating to medical cannabis patients, their caregivers, physicians and the current medical cannabis laws. Establishes a task force to examine the effects of salvia divinorum. (SB1058 HD1)

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**S.B. NO.** 1058  
S.D. 2  
H.D. 2  
(proposed)

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# A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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SECTION 1. (a) The attorney general shall coordinate a review of the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and public safety.

For purposes of this review:

- (1) "Diversion" means placement of the offender into drug treatment either in lieu of charging the offender or

allowing the offender to plead to a misdemeanor and be placed in treatment in lieu of imprisonment; and

- (2) "Minor drug possession offenders" means those accused of felony marijuana possession offenses of any grade and class B or C felony possession offenses involving other drugs.

(b) The review required by subsection (a) shall address the following issues:

- (1) The number of offenders that could be diverted if diversion occurred before charging and the number that could be diverted post-charging;
- (2) The effect of diversion on law enforcement, prosecution, judicial, and correctional resources;
- (3) The type, cost, and availability of treatment services that would be needed under a diversion program; and
- (4) The impact on public safety of diverting minor drug possession offenders and whether the impact could be reduced by, for example, excluding offenders with a history of violent offenses.

(c) The attorney general shall conduct the review required by subsection (a) in consultation with and using the problem-solving abilities of a broad range of public and private stakeholders, including:

- (1) Police;

- (2) Prosecutors;
- (3) Judges and other court officials;
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- (5) Public health experts;
- (6) Drug treatment providers;
- (7) Legal service providers;
- (8) A representative of the office of the public defender;
- (9) A representative of the American Civil Liberties Union of Hawaii;
- (10) A representative of a community advocacy group with at least fifteen years of experience, research, and statistical data to provide to the attorney general; and
- (11) A criminologist or researcher who can analyze the most current statistical data.

SECTION 2. The attorney general shall submit a report of findings and recommendations regarding the review required by this Act no later than twenty days prior to the convening of the regular session of 2010.

## PART II

SECTION 1. The legislature also finds that the State's medical marijuana (cannabis) program, enacted into law in 2000, is a public health program conceived out of concern for the health and welfare of the seriously and chronically ill.

Registration for the program is currently administered by the narcotics enforcement division (NED) of the public safety department (PSD) or the department of public safety (DPS), of which the definitions of their names are equal in every sense, for the purpose of this section.

Many patients, however, are intimidated by the prospect of dealing with a narcotics enforcement agency, and do not apply for certification. Therefore, they do not benefit from the protection from arrest or the threat of arrest by state or county authorities that is offered to those who are certified by the State under this program.

Furthermore, the program's current placement in the narcotics enforcement division is in part responsible for the reluctance of many physicians to certify patients. These physicians are concerned that their written certifications will be reviewed by the same entity that monitors physicians on issues of over-prescribing, "doctor shopping", and similar issues.

**SECTION 2. Medical cannabis task force: [NO (\$)**

**APPROPRIATION REQUEST FOR THIS SECTION AND RELATED SECTIONS BELOW].**

(a) There is to be established within the **department of health (DOH)** the **medical cannabis compassionate care task force.**



(b) The task force shall consist of thirteen (13) members named as follows.

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3. The President of The Drug Policy Forum or their designee **plus** one selected, state licensed medical cannabis patient,
4. The President of West O`ahu Hope for A Cure Foundation (WOHFAC), or their designee **plus** one selected, state licensed medical cannabis patient,
5. The Director of Americans for Safe Access (ASA), Honolulu Chapter, and their Medical Advisor,
6. The Director of the Narcotics Enforcement Division (NED) of the Public Safety Department (PSD) or their designee.
7. The Director of the Alcohol/Substance Abuse Division of the Department of Health or their designee,
8. One state licensed medical cannabis patient to be selected by the Governor Honorable Linda Lingle, and
9. 2 Co-Chairs, appointed as one (1) qualified person, by the President of the Senate and one (1) qualified person, by the Speaker of the House, that are Hawai`i State residents,

qualified in specific specialty areas of cannabis, such as cultivation, distribution, packaging, processing and dispensing.

(c) The task force shall:

(1) Develop and make recommendations for a distribution system for a truly viable medical cannabis compassionate care program, which would expand the presently needed unmet services not yet provided by Hawai'i's present medical marijuana (cannabis) law, for generally populated geographical areas and remote areas and remote places, which provides for:

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operated by licensed producers; and

(B) Distribution of medical cannabis to qualified patients for medical cannabis compassionate care or their primary caregivers, to take place at locations that are designated by the Narcotics Enforcement Division of the Public Safety Department and that are not within three hundred feet of any school, church, or daycare center;

(1) Review the list of different ailments to qualify patients under Hawai`i State Medical Cannabis Law.

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(4) Submit a report to the legislature no later than twenty days prior to the end of the regular session of 2010 that shall include:

(A) Any issues and concerns relating to the implementation of the medical cannabis compassionate care distribution program;

(B) The total number of licensed producers, qualifying patients, and primary caregivers that will utilize the program; provided that no personal, identifying information of producers, qualifying patients, or primary caregivers is included;

(C) An evaluation of the effectiveness of the program in providing medical cannabis compassionate care in general, and as well to individuals in remote places and remote areas, who are suffering from any chronic and debilitating illnesses;

(D) A distribution plan that provides for the safe, remote and effective distribution of medical cannabis to participants of the State's medical cannabis compassionate care program; and

(E) Any recommendations, including proposed legislation, to improve the provisions of the medical cannabis compassionate care program will be reported by written review to the 26<sup>th</sup> Legislature, no later than twenty days prior to beginning of the 2010 Regular Session.

(F) The Task Force shall cease to exist, by no later than June 30<sup>th</sup>, 2010, continuing to work with the Legislators on the recommendations and proposed legislation.

### PART III

SECTION 4. (a) The legislature finds that salvia divinorum, otherwise known as "diviner's sage" or "magic mint,"

is not regulated in Hawaii. The legislature further notes that several countries, such as Australia, Belgium, Denmark, Estonia, Finland, Italy, Japan, Spain, and Sweden have passed regulatory laws on salvia divinorum or its primary psychoactive constituent, salvinorin A. In the United States, California, Delaware, Florida, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Mississippi, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Virginia regulate salvia divinorum, with approaches ranging from classification as a Schedule I controlled substance to placing restrictions on its sale. The legislature finds that possible regulation of salvia divinorum and its primary psychoactive constituent, salvinorin A, is worthy of formal examination by the State.

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- (1) Research the uses and effects of salvia divinorum and salvinorin A on adults and minors;

- (2) Research all other states' legislation relating to salvia divinorum and salvinorin A;
- (3) Recommend appropriate legislation resulting from its findings to address the sale and use of salvia divinorum and salvinorin A in Hawaii; and
- (4) Address other issues and perform any other function necessary as the task force deems appropriate, relating to salvia divinorum or salvinorin A.

(c) The members of the salvia divinorum task force shall consist of the following members:

- (1) The director of public safety or the director's designee;
- (2) The director of health or the director's designee;
- (3) The administrative director of the judiciary or the administrative director's designee;
- (4) The attorney general or the attorney general's designee;
- (5) The president of the Hawaii State Bar Association or the president's designee; and
- (6) The president of the Drug Policy Forum of Hawaii or the president's designee.

(d) The salvia divinorum task force shall submit a report of its findings and recommendations, including any proposed

legislation and rules, no later than twenty days prior to the convening of the regular session of 2010.

(e) The salvia divinorum task force shall cease to exist on June 30, 2010.

#### PART IV

SECTION 5. This Act shall take effect on January 1, 2046.

I am testifying in support of SB 1058, "Relating to Controlled Substances" for which a committee meeting is scheduled for Monday, April 6, 2009 beginning at 4:00 PM.

I wish to support the general measures in this draft bill as I believe it is for the good of the state that we look towards decriminalizing minor marijuana/cannabis-related offenders. It is apparent that in a compassionate society, such victimless crimes need not clutter the judicial system and the jails and prisons of our society. Apart from the decriminalization issue, I also feel strongly that our Hawaii state laws should provide compassionate availability of medical cannabis to those who qualify medically. I believe that several provisions of the draft legislation go a long ways towards providing a safe and legal supply to those who require the benefits of such medical treatment.

Thank you for your kind consideration.

Kevin F. Tweedy  
6163 Waipouli Road  
Kapaa, HI 96746



HAWAII STATE LEGISLATURE

2009 REGULAR SESSION

FINANCE COMMITTEE HEARING

APRIL 6, 2009 ROOM 308

SB1058 SD2 HD1 TO BECOME HD2

**IN STRONG SUPPORT WITH ADDED AMMENDMENT**

**I WILL BE ATTENDING THIS COMMITTEE HEARING**

**I REPRESENT MYSELF AND ALL THE CLIENTS OF WEST OAHU HOPE  
FOR A CURE FOUNDATION (WOHFAC)**

Aloha Rep. Marcus R. Oshiro Chair, Rep. Marilyn B. Lee Vice Chair, and members of The Finance Committee.

My name is Mark Fisher, currently I am part of the unfortunate growing statistic of unemployed people in our State, so with my open schedule I have directed my time to public service by volunteering for West Oahu Hope For A Cure Foundation (WOHFAC) and also volunteering time to Sen. Chun Oakland's office. In my personal experience so far it has been so educational and very inspiring to be around people that have such passion to provide much needed services to our State. I recommend to anyone who has the drive to help people, to enter into public service starting maybe in the direction that hits them personally, and you will find out in so many ways how rewarding it can be.

I am currently a medical cannabis patient, so through my time I have had the resources to educate myself and the chances to address some of the problems in the State of Hawaii's current Medical "marijuana" Cannabis Law. A personally exciting lead for me was through WOHFAC, who has offered me a position as Director of a Preventive and Compassionate Care Services Program which will extend from their Non Profit Organization, and hopes to resolve the States Medical Cannabis issues.

Despite everyone's personal views on cannabis you are now starting to see a policy shift on how the law views "marijuana", and with according to that I am sure the State will be open to a proposed Medical Cannabis Task Force and its recommendations. I humbly request that West Oahu Hope For A Cure Foundation and one selected patient be offered a seat on the proposed Medical Compassionate Cannabis Task Force and our recommendations be considered, so that all views addressed go to having responsible and effective running Medical Cannabis Programs here in the state of Hawaii, one of which I hope to be a not for profit idea currently in the making from WOHFAC. I truly believe that the insertion of non-profit organizations and patients that come with positive views, enlightening ideas, and strict dedication to Medical Cannabis Patients be offered a membership on the Task Force.

I will be attending the hearing as I earlier stated and I am very interested in anyone's reason of why they think any of the proposed 13 members recommended by Joe Rattner, President of West Oahu Hope For A Cure Foundation, should not be offered a seat on the Task Force. We would be very pleased to hear that the Legislative agrees with our recommendations.

Sincerely,

Mark Fisher

1822 Beckley st.

Honolulu, Hi 96819

Phone: 808-347-4769

House Finance Committee

April 6, 2009 @ 4:00 p.m.

Position on SB1058 SD2 HD1: Support With Amendments

Members of the committee:

My name is Paul Minar. I have failed back syndrome. Failed back syndrome means you have had multiple back surgeries and they were not successful. I have neuropathic pain nerve damage caused by Diabetes, a fused back with degenerative disk disease, severe sciatic nerve damage. I get shocks down my legs and spasms and deep aching pain especially at night. I tried medicating with alcohol or prescription drugs with little or no relief from my symptoms while destroying my health. What really helps is Medical Cannabis. It works better and I can still think and function unlike when ingesting alcohol or doctor prescribed prescription heroin. Alcohol, hydrocodone, oxycontin. They will absolutely harm your health. I believe Medical Cannabis saved my life. My family doctor does too. I have a recommendation from my doctor for Medical Cannabis. Where am I supposed to get my Medical Cannabis medicine? I don't have any place to grow and I'm not a great gardener. We need a viable Medical Cannabis distribution system sooner not later. New Mexico has already authorized their first non profit growing and distribution organization. It's about time we did too. It will happen. Lets make Hawaii one of the leaders like we have been before. Lets not be the last.

I support bill SB585 with the amendment adding a wider range of members including patients and patient advocates to the medical marijuana task force. Let's make sure the task force has a majority of members who understand medical marijuana efficacy and understand that the state has already made it's decision on medical marijuana. It was a yes.

Respectfully submitted,  
Paul Minar