



It's Legal, So What's the Problem?

Marijuana and child custody issues

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The challenge
of marijuana
abuse
allegations in
custody cases

Marijuana is not without its risks



- Increased anxiety
- Panic attacks
- Weight gain/increased appetite
- Addiction
- Impaired attention, memory, and critical thinking
- Negative impacts on learning and social behavior
- Brain development, particularly with adolescent use

Table 1. Adverse Effects of Short-Term Use and Long-Term or Heavy Use of Marijuana.

Effects of short-term use

Impaired short-term memory, making it difficult to learn and to retain information

Impaired motor coordination, interfering with driving skills and increasing the risk of injuries

Altered judgment, increasing the risk of sexual behaviors that facilitate the transmission of sexually transmitted diseases

In high doses, paranoia and psychosis

Effects of long-term or heavy use

Addiction (in about 9% of users overall, 17% of those who begin use in adolescence, and 25 to 50% of those who are daily users)*

Altered brain development*

Poor educational outcome, with increased likelihood of dropping out of school*

Cognitive impairment, with lower IQ among those who were frequent users during adolescence*

Diminished life satisfaction and achievement (determined on the basis of subjective and objective measures as compared with such ratings in the general population)*

Symptoms of chronic bronchitis

Increased risk of chronic psychosis disorders (including schizophrenia) in persons with a predisposition to such disorders

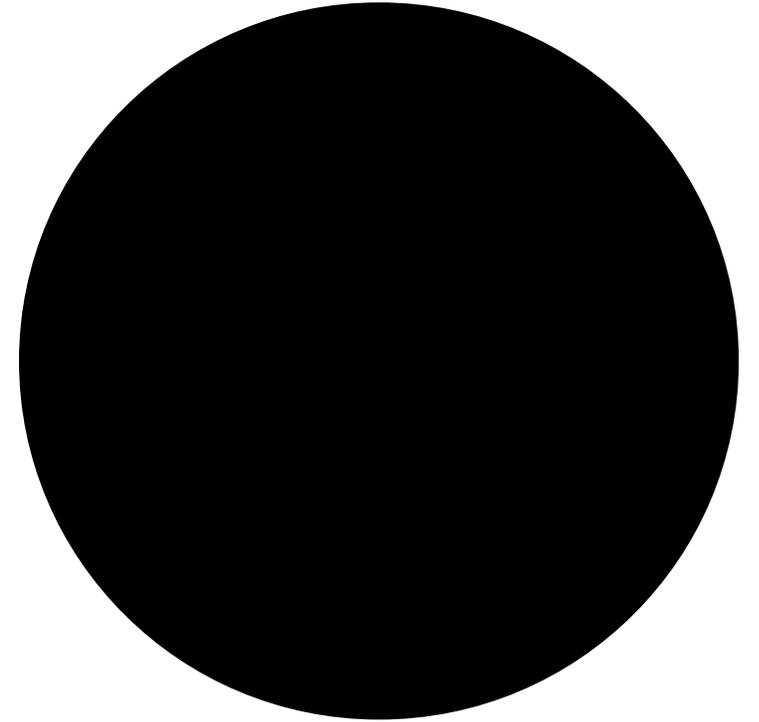
* The effect is strongly associated with initial marijuana use early in adolescence.

Table 2. Level of Confidence in the Evidence for Adverse Effects of Marijuana on Health and Well-Being.

Effect	Overall Level of Confidence*
Addiction to marijuana and other substances	High
Abnormal brain development	Medium
Progression to use of other drugs	Medium
Schizophrenia	Medium
Depression or anxiety	Medium
Diminished lifetime achievement	High
Motor vehicle accidents	High
Symptoms of chronic bronchitis	High
Lung cancer	Low

* The indicated overall level of confidence in the association between marijuana use and the listed effects represents an attempt to rank the strength of the current evidence, especially with regard to heavy or long-term use and use that starts in adolescence.

What do you do when
marijuana abuse presents as
an issue in your custody
matter?



Family Code
section 3011

Family Code
section 3011

Does Family Code section 3011
authorize a court to do its own
investigation of drug or alcohol
abuse?

No.







Is independent
corroboration required?

No.

But it certainly helps.

Sound discretion of the trial court

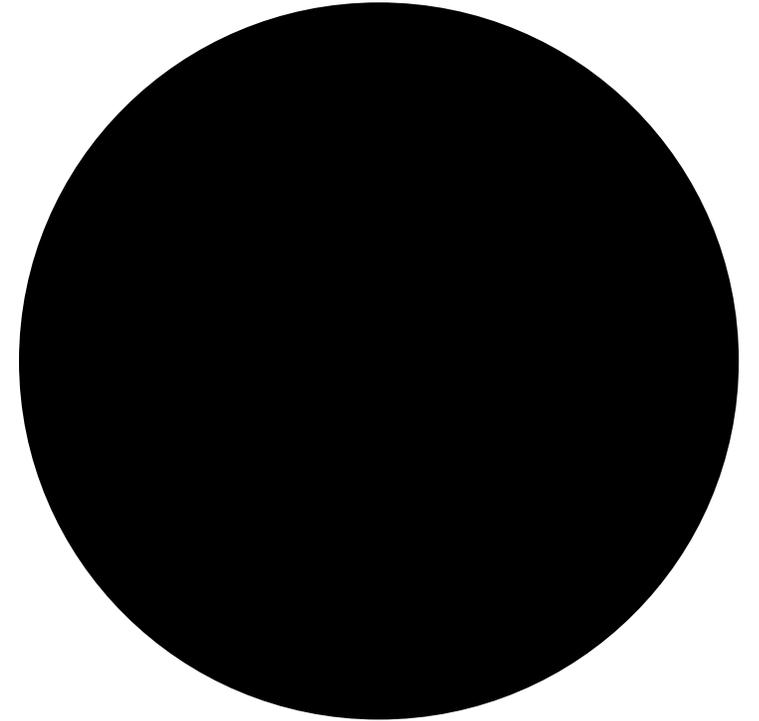
- Family Code section 3011 *authorizes* a trial court to require independent corroboration when such allegations are made.
- Independent corroboration *may* include police reports, child welfare services reports, probation reports, and the like, but that is not the limit of what can be corroborating evidence.
- Police reports, child welfare services reports, probation reports, and the like may not exist, particularly when you are dealing with a legal substance like marijuana.



What is “corroborating evidence”?

“Corroborating evidence is ‘evidence supplementary to that already given and tending to strengthen or confirm it. Additional evidence of a different character to the same point.’”

In re B.D. (2007) 156 Cal.App.4th 975, 984.







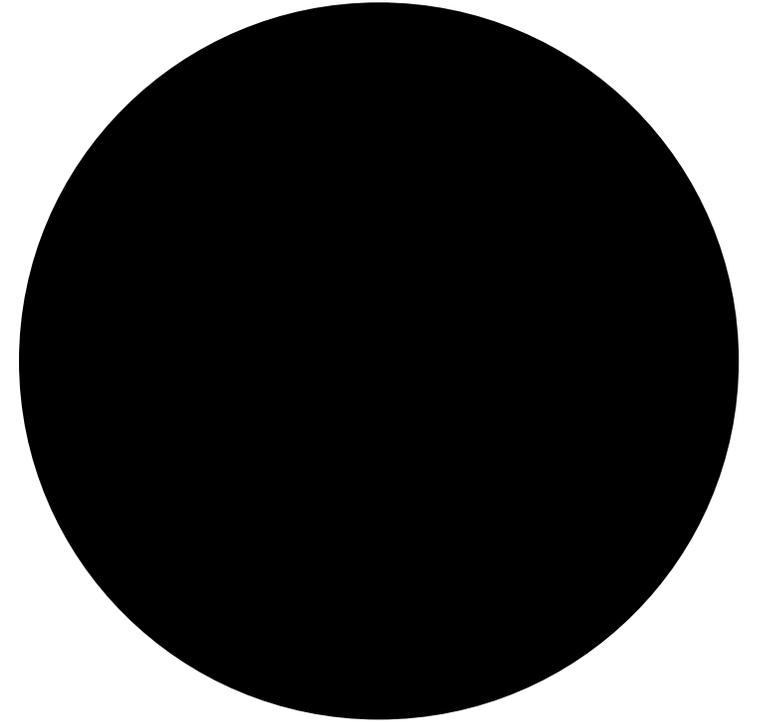
If court orders
custody
(either sole or
joint) to the
parent against
whom
allegations are
made:

Judicial Council Form 341 – transportation orders required by Family Code section 3111

9. **Transportation for visitation (parenting time)**
- a. The children must be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.
 - b. Transportation **to** begin the visits will be provided by the petitioner respondent
 other (*specify*):
 - c. Transportation **from** the visits will be provided by the petitioner respondent
 other (*specify*):
 - d. The exchange point at the beginning of the visit will be at (*address*):
 - e. The exchange point at the end of the visit will be at (*address*):
 - f. During the exchanges, the party driving the children will wait in the car and the other party will wait in his or her home (or exchange location) while the children go between the car and the home (or exchange location).
 - g. Other (*specify*):
10. **Travel with children.** The petitioner respondent other parent/party(*name*):
must have written permission from the other parent or a court order to take the children out of
- a. the state of California.
 - b. the following counties (*specify*):
 - c. other places (*specify*):

If habitual or continuance
abuse of marijuana is found
by preponderance of the
evidence

What comes next?



Judicial Council Form FL-341(D) orders relating to substance abuse

10. **Alcohol or substance abuse.** The petitioner respondent other parent/party may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within (*specify number*): _____ hours before or during periods of time with the children and may not permit any third party to do so in the presence of the children.
11. **No exposure to cigarette or medical marijuana smoke.** The parties will not expose the children to secondhand cigarette or medical marijuana smoke.

Family Code
section 3041.5
testing

