

PRIVACY IN THE HOME AND CANNABIS CULTIVATION RIGHTS

The Alaska precedent, its forty-year history, its limits, and how it translates to Connecticut.

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THE ARGUMENT IN ONE PARAGRAPH

In 1975 the Alaska Supreme Court held that the state constitution's privacy guarantee protects an adult's possession and use of cannabis inside the home. It did so on a principle that has nothing to do with cannabis policy: that the home is where the individual's claim to be left alone is strongest, and that government must show real harm, not speculation, before it crosses that threshold. That principle is the same one underlying the constitutional protection of contraception, abortion and medical decision-making generally. Connecticut cannot import Alaska's holding, because Connecticut's constitution has no privacy clause. But Connecticut can adopt the same principle by statute — which is where the argument belongs anyway, because in Connecticut the restriction at issue was never enacted by the legislature at all.

THE LIMITS OF THIS ARGUMENT, STATED FIRST

This brief sets out the parts of the argument that do not work, because those are the parts opposing counsel will raise. Three in particular. **(1)** *Ravin* protected possession and ingestion, not cultivation; several popular sources describe the holding inaccurately. **(2)** *Ravin* expressly refused to protect buying, selling or transfer, which is a direct problem for the caregiver provisions. **(3)** Every other state supreme court asked to follow *Ravin* has declined. Overstating this argument costs more credibility than the argument gains. Sections IV, V and VII address each of them.

I. What Alaska Did, and When

Alaska's privacy clause was not adopted with cannabis in mind. It was ratified in 1972 as a general amendment to the state's Declaration of Rights, one sentence long:

“The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.”

Alaska Const. art. I, § 22 (ratified 1972).

Irwin Ravin was arrested on December 11, 1972, months after ratification, and charged under AS 17.12.010. He moved to dismiss on privacy and equal protection grounds. The district court denied the motion after lengthy expert hearings; the superior court affirmed; the Alaska Supreme Court granted review. On May 27, 1975 a unanimous five-justice court ruled in his favor.

Ravin v. State, 537 P.2d 494 (Alaska 1975) (Rabinowitz, C.J.).

The reasoning, step by step

The structure of the opinion is what makes it portable to other states and other subjects. The court did not find a right to use cannabis. It said the opposite:

“[I]f we were employing our former test, we would hold that there is no fundamental right, either under the Alaska or federal constitutions, either to possess or ingest marijuana.”

537 P.2d at 502.

The right the court found was not about the substance. It was about the place:

“If there is any area of human activity to which a right to privacy pertains more than any other, it is the home. . . . The home, then, carries with it associations and meanings which make it particularly important as the situs of privacy. Privacy in the home is a fundamental right, under both the federal and Alaska constitutions.”

537 P.2d at 503–04.

From there the court built its holding in three moves. First, it located the home in a long constitutional tradition rather than inventing something new, citing the Third Amendment's bar on quartering troops, the Fourth Amendment's protection of houses, the Fifth Amendment as guarding “the sanctity of a man's home and the privacies of life,” *Griswold's* refusal to let police search “the sacred precincts of marital bedrooms,” and *Stanley v. Georgia*.

Second, it set two express limits:

“First, we agree with the Supreme Court of the United States, which has strictly limited the Stanley guarantee to possession for purely private, noncommercial use in the home. And secondly, we think this right must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare.”

537 P.2d at 504.

Third, it put the burden on the State and held that speculation does not carry it. This is the operative rule:

“The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.”

537 P.2d at 511.

The court found the State had two legitimate concerns — impaired driving and access by adolescents — and held both insufficient to reach inside the home. It also went out of its way to say it did not condone cannabis use, and to withhold protection from commerce entirely:

“Further, neither the federal or Alaska constitution affords protection for the buying or selling of marijuana, nor absolute protection for its use or possession in public. Possession at home of amounts of marijuana indicative of intent to sell rather than possession for personal use is likewise unprotected.”

537 P.2d at 511. This sentence bears directly on the caregiver provisions. See Section VII.

II. The Forty Years After *Ravin*

The useful part of the Alaska story is not that a court ruled once. It is that the ruling survived a direct popular repeal, a legislative override and four decades of hostile attorneys general. That durability is the argument for putting a rule in law rather than leaving it to an agency.

Year	Event	Effect
1972	Alaska Const. art. I, § 22 ratified	Express privacy right added to the Declaration of Rights.
1975	<i>Ravin v. State</i> , 537 P.2d 494	In-home adult possession and ingestion protected. First and only such holding in the country.
1975–82	Legislative decriminalisation	Penalties reduced, then the \$100 fine removed in 1982; up to four ounces in the home treated as lawful.
1990	Ballot Measure 2	Purported to re-criminalise all possession, including in the home.
1998	Measure 8	Medical cannabis approved by voters.
2003	<i>Noy v. State</i> , 83 P.3d 538	Held the 1990 initiative unconstitutional as applied to in-home possession under four ounces. Ballot initiatives are subject to the same constitutional limits as statutes.
2003	<i>Noy v. State</i> (II), 83 P.3d 545	Rehearing denied; rejected the State's argument that <i>Ravin</i> created only an affirmative defense rather than a limit on legislative power.
2006	Legislature acts again	Possession limited to one ounce. Juneau Superior Court struck it down.
2009	<i>State v. ACLU of Alaska</i> , 204 P.3d 364	Alaska Supreme Court vacated on standing grounds, not on the merits. <i>Ravin</i> left intact.
2014	Ballot Measure 2 — full legalisation	Regulated adult-use market created, with an express clause providing the Act shall not be construed to diminish the privacy right as interpreted in <i>Ravin</i> .

WHAT THAT SEQUENCE SHOWS

In 1990 Alaska's voters repealed the rule. It did not stay repealed, because it had a constitutional foundation and the courts enforced it. Connecticut has no such foundation, which means in Connecticut the rule has to come from the legislature, and it is the legislature's to defend. That is not a weakness in the argument. It is the reason the argument is addressed to the General Assembly rather than to a court.

When Alaska legalised in 2014 the drafters did not treat *Ravin* as superseded. They wrote in that nothing in the Act diminishes the privacy right as interpreted in *Ravin*. A regulated commercial market and a constitutional floor for private conduct in the home were treated as compatible, not as substitutes.

III. What *Ravin* Held, and What It Did Not

A WIDELY REPEATED CLAIM THAT IS WRONG

Numerous sources, including major newspapers and several industry publications, state that *Ravin* protected the right to “possess, cultivate and consume” cannabis in the home. The opinion does not say that. The word “cultivate” appears nowhere in the holding. The court repeatedly framed the protected conduct as possession and ingestion: “possession of marijuana by adults at home for personal use is constitutionally protected.” 537 P.2d at 511.

Anyone who tells a committee that an Alaska court recognized a constitutional right to grow cannabis at home will be corrected by the first person who reads the case.

How cultivation protection actually arose in Alaska

Cultivation came to be protected in Alaska through the interaction of the holding with the statutory scheme, not through a separate constitutional ruling. Because the protected quantity was measured by weight possessed in the home, cannabis a person grew there counted within the same ceiling. *Noy* shows the courts working through exactly that problem. Alaska's current plant limits come from the 2014 statute, not from *Ravin*.

The accurate formulation is this: *Ravin* established that the State needs a real, demonstrated harm before it can regulate what an adult does privately at home, and Alaska's law developed over the following forty years to include growing within that protected sphere. That is both correct and still a strong statement.

The four limits built into the holding

Limit	What it means for a Connecticut bill
Non-commercial only	Protection extends to “purely private, non-commercial” conduct. Any provision resembling a sales channel falls outside the rationale.
No protection for buying or selling	Expressly stated at 511. Transfer between people is the weak point of a caregiver model under this reasoning.
Yields to serious harm to others	The right “must yield when it interferes in a serious manner with the health, safety, rights and privileges of others.” Odor, child access and neighbor effects are legitimate subjects of regulation, and the bill regulates them rather than ignoring them.
Diminishes outside the home	Public possession and driving were expressly unprotected. The argument concerns the dwelling and its grounds and should never be stated more broadly.

IV. Where This Argument Has Failed

Alaska is alone. Any brief that does not say so is discredited by the first person who checks. The Hawaii Supreme Court, construing a constitution that unlike Connecticut's contains an express privacy clause, put it directly:

“We reject Mallan's suggestion to adopt the *Ravin* analysis. . . . Moreover, as far as we can determine, Alaska stands alone in extending the right to privacy to include possession and use of marijuana.”

State v. Mallan, 86 Hawai'i 440, 950 P.2d 178 (1998).

The *Mallan* court gave two reasons that will be quoted in opposition: that *Ravin* is not binding elsewhere, and that it rested “at least in part, on social and cultural factors unique to Alaska.” *Ravin* itself invites that reading, describing Alaska as “traditionally . . . the home of people who prize their individuality.” Rejections both predate and postdate Alaska — Massachusetts, Hawaii, Texas, California and Florida among them.

The Montana problem

Montana is the sharpest test of this argument, and it cuts both ways. Montana has an express constitutional privacy clause and its Supreme Court has used that clause aggressively to protect medical autonomy: *Armstrong v. State*, 1999 MT 261, held that it protects the right to obtain a pre-viability abortion, reaffirmed in *Weems v. State*, 2023 MT 82, and in *Planned Parenthood of Montana v. State* (2024). The same clause supported *Gryczan v. State*, 283 Mont. 433 (1997), striking down Montana's sodomy statute. And yet in *Montana Cannabis Industry Association v. State*, 2016 MT 44, the same court declined to hold that the privacy clause protects access to medical marijuana.

WHAT MONTANA PROVES

A state can read its privacy clause broadly enough to protect abortion, contraception and private consensual conduct, and still decline to extend it to cannabis. Courts treat medical autonomy and drug policy as different categories, whatever the logical similarity. Presented as though the medical-privacy parallel decides the cannabis question, this argument loses to a single citation.

Montana proves the point about who decides. Courts have been unwilling to extend privacy doctrine to cannabis. That is an argument for legislatures acting, not for the question being settled.

V. The Medical Privacy Parallel

This argument reaches both parties because *Ravin* is built out of the same materials as the medical autonomy cases. The Alaska court did not analogize to drug policy. It analogized to *Griswold*, *Eisenstadt*, *Stanley* and *Roe*, and discussed all four at length.

Griswold v. Connecticut, 381 U.S. 479 (1965) — a Connecticut case — held that specific guarantees in the Bill of Rights have “penumbras, formed by emanations from those guarantees that help give them life and substance,” creating zones of privacy. *Eisenstadt v. Baird*, 405 U.S. 438 (1972), moved the right from the place to the person. Justice Boochever’s concurrence in *Ravin* traced exactly that line:

“Similar considerations would apply to certain relationships, without reference to situs, i.e. attorney-client, doctor-patient, priest-parishioner, marital relationship, parent-child.”

537 P.2d at 515 (Boochever, J., concurring).

Why this reaches conservatives	Why this reaches progressives
The home is the last redoubt of the private citizen. The Third and Fourth Amendments exist because the founders regarded government entry into the dwelling as the characteristic abuse of state power. <i>Ravin</i> is a Fourth Amendment-adjacent opinion more than a drug case.	Connecticut has already adopted the principle by statute in the medical context. P.A. 22-19 (2022), the first shield law in the nation, protects patients and providers of reproductive health care, later extended to gender-affirming care.
Government must prove harm before it regulates private conduct. “Mere scientific doubts will not suffice” is a limited-government proposition.	The post- <i>Dobbs</i> logic is state-level medical privacy. When the federal right was withdrawn, the response was to secure medical autonomy through state statute. That is the same instrument being asked for here.
Elected legislatures make these calls, not agencies. The indoor-only rule appears in Department policies and procedures, not in the statute the General Assembly passed.	The burden falls on the least powerful patients. The Cannabis Ombudsman reported that patients contacting her office were predominantly veterans and senior citizens with debilitating conditions. An indoor-only rule is an electricity-cost test for who may grow their own medicine.

THE SENTENCE THAT WORKS IN BOTH DIRECTIONS

The question is not whether you approve of cannabis. The question is what the State must show before it reaches past your front door to tell you which wall your medicine may grow behind.

VI. Translating This to Connecticut

Connecticut has no constitutional privacy clause. The Office of Legislative Research has said so directly:

“The word ‘privacy’ does not appear in the state constitution but its guarantees against unreasonable search and seizure, compulsory testimony, and self-incrimination and its guarantees of freedom of association and religion are modeled after the federal constitution, which has been construed as protecting privacy.”

OLR Report 98-R-1389, Sufficiency of Connecticut's Privacy Laws.

Roughly eleven states have express constitutional privacy rights — Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, New Hampshire, South Carolina and Washington. Connecticut is not among them. A Connecticut court will not do what the Alaska court did.

Connecticut courts have nonetheless found an implicit privacy right in the state constitution. In *Doe v. Maher*, 40 Conn. Supp. 394, 515 A.2d 134 (Conn. Super. Ct. 1986), the court struck down a Medicaid regulation limiting abortion funding, reasoning from Connecticut's 1818 constitution that “the right of privacy is also implicitly guaranteed under our state charter of liberty.” 40 Conn. Supp. at 421. The Attorney General adopted that reasoning in Formal Opinion 1998-022.

THE LIMIT ON *DOE v. MAHER*

Doe v. Maher is a Superior Court decision. It is not binding statewide precedent and the Connecticut Supreme Court has not adopted its privacy holding. It supports the proposition that Connecticut courts have recognized implicit privacy protection in the state constitution. It is not settled law and should not be cited as though it were.

The Geisler factors

State v. Geisler, 222 Conn. 672, 684–86, 610 A.2d 1225 (1992), sets out six factors for arguing that Connecticut's constitution protects more than the federal floor.

Geisler factor	How it runs here
1. Persuasive relevant federal precedents	Mixed. <i>Stanley</i> and <i>Griswold</i> support home privacy; <i>Dobbs</i> narrowed federal substantive due process generally.
2. Text of the operative provisions	Weak. Art. first, § 7 tracks the Fourth Amendment, and textual similarity alone gives no reason to depart from federal doctrine.
3. Historical insight into framers' intent	Possible. <i>Doe v. Maher</i> reasoned from the 1818 charter. Requires real historical work.
4. Related Connecticut precedents	Thin but real. <i>Doe v. Maher</i> ; Connecticut's recognition that its due process clause “shares but is not limited by” the federal counterpart.
5. Persuasive precedents of other states	Weak. Alaska stands alone; Hawaii and Montana rejected the extension.
6. Contemporary norms and public policy	Strongest. Adult home cultivation is already lawful in Connecticut. The only question is which wall the plant stands behind.

THE HONEST CONCLUSION

A Geisler claim on these facts would probably lose. Factors 2 and 5 run against it and factor 1 has weakened since *Dobbs*. This is not a litigation argument. It is a legislative one, and the legislative route is stronger here.

Connecticut's situation is better than Alaska's was in 1972. *Ravin* had to overcome a criminal statute duly enacted by the Alaska legislature. Connecticut's indoor-only rule was never enacted by anyone. § 21a-278c authorizes an adult to cultivate in the primary residence; § 21a-408d(b) does the same for qualifying patients. Neither contains the word “indoors.” Neither contains a visibility requirement. Alaska needed a constitutional privacy clause to override a legislative choice. Connecticut needs only the General Assembly to make a choice it has not yet made.

VII. The Caregiver Provisions Need a Different Justification

RAVIN DOES NOT SUPPORT THE CAREGIVER PROVISIONS

Ravin protected “purely private, non-commercial” conduct in the home and expressly refused protection for “the buying or selling of marijuana” or for “possession at home of amounts . . . indicative of intent to sell.” A caregiver cultivating on behalf of other households, receiving reimbursement and transferring product sits outside that rationale — not marginally, but categorically.

The practical consequence is that the privacy argument is powerful for the cultivation-location provisions and close to useless for the caregiver license. Those rest on different ground: patient access, product safety, testing data, and the Ombudsman’s documented patient complaints. Using privacy to carry both allows the weak half to defeat the strong half.

Accurate and inaccurate statements

For anyone speaking to this argument in a hearing or a meeting.

Accurate	Not accurate
“Alaska’s Supreme Court held in 1975 that the state must show real harm before regulating what an adult does privately in the home.”	“Alaska legalised cannabis in 1975.” It did not. It protected in-home possession from prosecution.
“ <i>Ravin</i> protected possession and use in the home. Alaska’s law developed over forty years to include cultivation.”	“ <i>Ravin</i> recognized a right to grow cannabis at home.” The opinion does not say that.
“Connecticut has no privacy clause, so this is the legislature’s decision, not a court’s.”	“The Connecticut Constitution protects this.” It does not, and asserting it forfeits credibility on everything else.
“Alaska is the only state whose courts went this far. Every other court has said this is a legislative question.”	Implying the case law is broadly favorable. It is not, and the record is one search away.
“The indoor-only rule isn’t in § 21a-278c or § 21a-408d. It’s in agency policies and procedures.”	Framing this as an expansion of cannabis access. It is a relocation of an existing, already-lawful activity.

VIII. The Two-Minute Version

In 1975 the Alaska Supreme Court decided a case called *Ravin*. It did not find a right to use cannabis — it said plainly there was no such right. What it found was that the home is where a person’s claim to be left alone is strongest, and that the State must show actual harm, not speculation, before it crosses that line. The court’s words were: “mere scientific doubts will not suffice.”

Alaskan voters repealed that protection in 1990. The courts restored it, because the principle had a foundation. Alaska’s legalisation law in 2014 expressly preserved it.

Connecticut has no privacy clause in its constitution, so no Connecticut court is going to do what Alaska’s did. That decision belongs to the General Assembly. And here it is easier than it was in Alaska, because Connecticut’s legislature never voted for the rule at issue. Section 21a-278c lets an adult grow in their primary residence. It says nothing about indoors. The indoor requirement is in a Department policy document.

So the ask is narrow. Same security requirements. Same prohibition on sale. The change is that a patient may grow behind a locked fence in their own yard instead of paying Connecticut electricity rates to grow in a closet — and the

decision about which wall the plant stands behind gets made by the people elected to make it.

IX. Sources and Verification Status

Judicial opinions are public domain and may be quoted at length.

Authority	Proposition	Status
Ravin v. State, 537 P.2d 494 (Alaska 1975)	In-home adult possession and ingestion protected; “mere scientific doubts will not suffice”; no protection for buying or selling.	Full opinion retrieved
Noy v. State, 83 P.3d 538 (Alaska App. 2003)	1990 initiative unconstitutional as applied to in-home possession under four ounces.	Verified
Noy v. State (II), 83 P.3d 545	Rejected the State's “affirmative defense only” reading of Ravin.	Verified
State v. ACLU of Alaska, 204 P.3d 364 (Alaska 2009)	Vacated on standing; merits untouched.	Verified
State v. Mallan, 950 P.2d 178 (Haw. 1998)	Rejected Ravin; “Alaska stands alone.”	Verified
Armstrong v. State, 1999 MT 261	Montana privacy clause protects pre-viability abortion.	Verified
Montana Cannabis Indus. Ass'n v. State, 2016 MT 44	Declined to extend the privacy clause to medical marijuana access.	Verified
Doe v. Maher, 40 Conn. Supp. 394 (1986)	Implicit privacy right under the Connecticut constitution.	Verified — Superior Court only, not binding statewide
State v. Geisler, 222 Conn. 672 (1992)	Six-factor test for independent state grounds.	Verified
Griswold v. Connecticut, 381 U.S. 479 (1965)	Penumbra zones of privacy.	Verified
OLR Report 98-R-1389	Connecticut constitution contains no privacy clause.	Verified

Statutory text quoted from the current General Statutes and verified as of August 9, 2026. This document is advocacy and policy analysis. It is not legal advice and its author is not an attorney. Statutory citations were verified against the current General Statutes on August 9, 2026.