

# Top Drug Reform Trends, 2021

Over the past half-century, America's war on drugs has spent over \$1 trillion criminalizing and marginalizing tens of millions of people. Since 1995 and every year since, personal drug possession is the leading cause of arrest—a tragic entrance into humanity's largest surveillance and incarceration system.

The enforcement of drug laws continues to disproportionately target poor, Black and Brown communities, where limited municipal resources should be more appropriately spent on social and health services. Instead, millions are funneled into court, prison, probation, and numerous other criminal-legal entanglements.

In response to these tragedies, Congress failed to offer any meaningful drug decriminalization. As federal prohibition continues, some state and local reformers operate in a legal gray zone. Continued criminal-justice reforms and the dismantling of harsh drug laws have reduced these trends in many states, but too many continue to target and punish already marginalized communities.

These are the policies doing the most to dismantle drug prohibition:

## DRUG DECRIMINALIZATION

[Drug convictions](#) are a substantial component of mass incarceration: 15% of the state prison population, 22% of people in jails, and 44% of federal incarceration levels. To address this, cities and states continue to dismantle their drug laws, often in violation of federal law.

### [Drug Possession](#)

Drug laws in [Washington](#) were a roller coaster in 2021 after the state Supreme Court struck down their drug possession laws as unconstitutional. After drugs were effectively decriminalized for a few months, the legislature passed a bill that re-criminalized drug possession as a misdemeanor instead of a felony, at least for the first two offenses. The new law is retroactive, and freed dozens of people serving possession charges.

[Rhode Island](#) amended their drug laws to reclassify drug possession of 10 grams or less to a misdemeanor charge. However, a misdemeanor in Rhode Island can be punishable by up to two years, unlike the typical one year maximum sentence in most states.

### [Marijuana Legalization & Decriminalization](#)

Legalization of marijuana possession was the most common reform of the year, with four states removing

legal penalties for possession and use, at least for 21 year olds and older. [Connecticut](#), [New Mexico](#), [New York](#) and [Virginia](#) joined the list of states to legalize cannabis, increasing the total to 18. Virginia is the first southern state to legalize the drug. Additionally, the [New Jersey](#) legislature enacted legalization after a voter-approved referendum passed last year.

[Louisiana](#) decriminalized marijuana, totaling 13 states that have done so. [Another bill](#) added flower to their medical cannabis law, allowing it to be smoked legally for the first time. [Alabama](#) also legalized medical marijuana bringing the total to 36 states, as well as Washington, D.C.

### [Psilocybin Mushrooms](#)

[New Jersey](#) passed legislation reducing the penalties for possession of psilocybin mushrooms to a misdemeanor. The maximum penalty is 6 months for possession of up to 1 ounce of the drug, reducing the previous penalty of 3 to 5 years.

[Seattle](#), [Detroit](#), and [four cities in Massachusetts](#) (Cambridge, Somerville City, Easthampton, and Northampton) all decriminalized psilocybin mushrooms last year, totaling 11 cities that have decriminalized the drug. Seattle's law also decriminalized other psychedelics.

## Drug Sentencing

[California](#) passed legislation that ended mandatory minimums for drug crimes, giving judges more discretion. The law allows probation or the suspension of sentences for first-time offenders, as well as those with previous convictions.

### [Crack-cocaine Sentencing Disparity](#)

No states addressed their sentencing disparity for crack cocaine in 2021, leaving eight states, as well as federal law, with harsher penalties for crack cocaine than powder cocaine, despite having no pharmacological difference.

## HARM REDUCTION

The transition from understanding and treating drug abuse as a criminal issue to a medical issue continues with more jurisdictions passing basic drug-safety legislation, as annual [overdose deaths](#) topped 100,000 for the first time.

### [Supervised Consumption Sites](#)

[New York City](#) opened the nation's first government-sanctioned, safe consumption site for illegal drugs, claiming that it [prevented 59 overdoses](#) in the first three weeks. Additionally, [Rhode Island](#) became the first state to authorize supervised consumption sites to address the opioid pandemic.

### [Needle Possession and Exchange Programs](#)

[Oklahoma](#) and [Arizona](#) legalized needle exchange programs, making a total of 32 states that allow sterile syringe programs to reduce blood-borne diseases.

[Maine](#) decriminalized the possession of hypodermic needles, fentanyl testing strips, and many other types of drug paraphernalia, after a broader drug

decriminalization law failed. [New York](#) also decriminalized possession and sale of syringes, bringing the total to five states that do not criminalize possession of syringes.

### [Good Samaritan Laws](#)

No states added protections for people who report drug or alcohol overdoses in 2021. These laws vary widely by state, but there is some form of immunity for seeking medical help after an overdose in all but three states.

## COLLATERAL CONSEQUENCES

After serving jail or prison time for drug convictions, people face a web of other consequences, including housing discrimination, driver's license suspension and loss of eligibility for public benefits.

### [Marijuana Expungement](#)

New Jersey, New Mexico, New York and Virginia enacted automatic expungement for most marijuana convictions. These include both misdemeanor and felony convictions, although Virginia does require petitions for the expungement of felony convictions.

### [SNAP Benefits](#)

[Kentucky](#) and [Nevada](#) ended the practice of banning people from SNAP benefits for felony drug convictions. There are a total of 28 states with no ban and 21 states with partial bans, leaving only West Virginia with a full ban.

### [Driver's License Suspension](#)

No states altered their driver's license suspension laws for drug possession last year. Texas, Florida, Arkansas, Georgia and Michigan continue to enforce mandatory driver's license suspension for non-driving, drug-possession charges.