Recognizing the harm caused by felony convictions and the importance of targeting limited correctional resources more efficiently, state policymakers and voters have made key adjustments to their drug laws in recent years. Beginning in 2014 with Proposition 47 in California, five states have reclassified all drug possession from a felony to a misdemeanor. Following the California referendum, legislation in Utah (House Bill 348 in 2015), Connecticut (House Bill 7104 in 2015), and Alaska (Senate Bill 91 in 2016) passed with overwhelming bipartisan majorities, and Oklahoma voters in 2016 reclassified drug possession through a ballot initiative (State Question 780) with nearly 60 percent support.

The reforms that have been passed in recent years share three critical details: convictions for simple drug possession up to the third conviction are classified as misdemeanors, people convicted of drug possession are ineligible for state prison sentences, and these changes apply to virtually all controlled substances. This brief explores the policy details of reclassification, the potential impact of the reforms, and lessons for other states looking to adopt similar changes to their drug laws.

Why Felony Convictions Matter

Over the past four decades, the number of people convicted of a felony offense has grown substantially, driven in part by increasingly punitive drug laws. As of 2010, an estimated 20 million people in the US had a current or prior felony conviction, about four times more than in 1980.
Felony convictions for drug law violations are also a major driver of prison admissions in many states.³ While prison admissions for drug offenses have declined in recent years, more people were sent to prison for drug offenses than violent crimes every year from 1993 to 2009.⁴ In 2016, almost 280,000 people were incarcerated for drug offenses in state and federal prisons (nearly 1 in 5).⁵

This growth has occurred at great public expense, despite the fact that research shows public health responses to drug use are more effective than criminal justice responses and incarcerating people for drug offenses has a questionable impact on public safety.⁶ In fact, a recent analysis of state corrections and public health data found no relationship between imprisonment rates and rates of drug use, overdose deaths, or arrests for drug law violations.⁷ In other words, evidence shows more punitive criminal justice responses such as felony convictions are not effective tools to deter drug use or mitigate the harm it can cause.

On the other hand, for people convicted of felony offenses and the communities in which they live, there are numerous negative impacts.⁸ Felony convictions can lead to jail or prison time and can increase prison sentences by years or even decades due to sentencing enhancements.⁹ Periods of incarceration, even relatively short ones, can affect a person’s ability to secure and maintain employment and housing, as well as fulfill family obligations such as parenting and child support.¹⁰

_We can’t just warehouse people. There needs to be rehabilitation, especially for nonviolent offenders. There ought to be a better way to do this so we don’t have a revolving door._

—Utah Governor Gary Herbert, Salt Lake Tribune, November 12, 2014

People with a felony record are also subject to numerous extrajudicial punishments and restrictions (known as collateral consequences), which go beyond the direct impact of incarceration and number in the hundreds in many states.¹¹ Among the most common collateral consequences placed on people with felony convictions are bans on employment in professions as far-ranging as real estate, banking, cosmetology, and pest control.¹² Research demonstrates that such limitations can undermine public safety, as access to jobs is a key factor in reducing risk to recidivism.¹³ Still, many employers require applicants to disclose whether they have been convicted of a felony crime, despite efforts to “ban the box” on job applications in many state and local governments.¹⁴

As a result, felony convictions impact job security for those who are sentenced to probation and are a major barrier to success for those returning home from prison. But there are also broader societal costs. Limiting opportunities for people to find and keep a job contributes to high unemployment rates, low productivity, and financial insecurity. According to one study, felony convictions in the US lead to a loss of as much as $87 billion in annual GDP.¹⁵

Another serious consequence of rising felony convictions is the widespread loss of voting rights. An estimated 6.1 million Americans—2.5 percent of the total voting-age population—are denied the right to
vote through felony disenfranchisement laws. Several states impose restrictions on voting even after people have completed their sentences, resulting in disenfranchisement rates of 7 percent or higher in Kentucky, Mississippi, Tennessee, Florida, and Virginia. Evidence suggests that permanent felony disenfranchisement laws are costly and could have a negative impact on rearrest rates for people released from prison.

Florida has the most restrictive law in the country and blocks 1.5 million residents—10 percent of the voting-age population—from exercising their right to vote. Nearly 90 percent of the disenfranchised people in Florida have completed their sentences and cannot vote because of old felony convictions. Recent analysis estimated the economic statewide impact of restoring voting rights for people convicted of a felony in Florida at $365 million annually.

Felony convictions impose a particularly heavy burden on communities of color. Despite using illegal drugs at similar rates to white people, black people are arrested for drug offenses nearly three to four times more often. This contributes to significant racial disparities throughout the criminal justice system. In 2010, 25 percent of black people had a current or prior felony conviction (compared with just 6 percent of the rest of the population), and researchers estimate that one in three black men will be convicted of felony offenses in their lifetimes.

Reclassifying Drug Possession to a Misdemeanor

Over the past two decades, states have implemented numerous reforms to more effectively hold people accountable for drug offenses and address underlying substance use disorders when appropriate. These include creating and/or expanding drug courts, providing treatment as an alternative to incarceration, and, most recently, redefining and reclassifying drug offenses in criminal statute. This shift reflects a growing recognition that prevention and treatment programming provided outside the criminal justice system can be more effective than relying solely on punishment to stop illegal substance use.
Though people come into contact with the justice system for a range of drug-related offenses, possession makes up a significant proportion of cases. In fact, more than 80 percent of arrests for drug law violations are for drug possession alone, and 3.4 percent of the state prison population—nearly 50,000 people—is incarcerated for drug possession. There are no available estimates of how many people have a felony conviction for drug possession, or the impact of old felony convictions for drug possession on prison sentences and time served, but treating drug possession as a misdemeanor offense could reduce criminal justice spending and eliminate the harmful impact of a felony conviction.

**BOX 1**

**Methodology**

To identify states that classify drug possession as a misdemeanor, the Urban Institute conducted a 50-state scan of criminal laws related to drug possession, tracking and recording the following in each state:

- drug possession classifications in state law for each controlled substance (felony or misdemeanor);
- definitions such as weight thresholds for felony drug possession;
- possession with intent to distribute (PWID) statutes, including any legal presumptions or guidance related to charging and prosecuting PWID; and
- criminal history exclusions or habitual offender sentencing enhancements that affect the classification of drug possession convictions.

Through this scan, we identified five states as of 2018 that classify simple drug possession for virtually all drugs and weights as a misdemeanor (up to at least the third conviction) and make drug possession offenses ineligible for prison time.

As of 2018, five states have reclassified simple drug possession as a misdemeanor. The first state was California with the passage of its 2014 voter-approved Proposition 47. This ballot initiative reclassified several nonviolent offenses (including drug possession) from felonies to misdemeanors, authorized the removal of felony records for people with old felony convictions, and required the state to annually reinvest the savings from reduced prison spending into crime prevention programs, drug and mental health treatment, and trauma recovery services for victims of crime.

After the passage of Proposition 47 in November 2014, Utah, Connecticut, Alaska, and Oklahoma also reclassified drug possession from a felony to misdemeanor. While there are key differences in who is eligible and how drug possession is defined, the reforms in these five states share three important policy details:

1. Convictions for drug possession are misdemeanors (up to at least the third conviction).
2. Someone convicted of drug possession is ineligible to serve time in prison (up to at least the third conviction).
3. Weight limits are not specified, and drug possession is a misdemeanor crime for virtually all controlled substances.

As shown in table 1, three of the five states have criminal history exclusions that make people eligible for a felony sentence or prison time if they have prior felony convictions. In Utah and Connecticut, convictions for drug possession become a felony after two prior drug possession convictions. In California, people with prior convictions for serious or violent offenses are not eligible for a misdemeanor sentence.

<table>
<thead>
<tr>
<th>State</th>
<th>Misdemeanor sentence</th>
<th>Ineligible for prison</th>
<th>Weight and drug type not specified</th>
<th>No criminal history exclusions</th>
<th>Retroactive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Connecticut</td>
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<tr>
<td>Oklahoma</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<td></td>
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<tr>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>


Notably, California is the only state to allow these changes to be applied retroactively; meaning people who have been convicted of one of the offenses changed by Proposition 47 can apply for resentencing or reclassification. As of March 2018, more than 340,000 petitions for resentencing and record change have been filed in California courts, and it has been estimated that as many as 1.5 million Californians may be eligible to apply.

In many states, people convicted of possessing drugs under certain weight thresholds receive a misdemeanor sentence. A few states classify all simple drug possession as a misdemeanor but either have extremely low weight thresholds, resulting in possession of even small amounts of a drug being classified as PWID (Tennessee), or allow prison sentences for misdemeanor convictions (Iowa). Because of these exceptions, many people convicted of simple drug possession in Iowa and Tennessee remain eligible for prison time. Oregon recently reclassified drug possession from a felony to misdemeanor (House Bill 2355), but the legislation excludes people with small amounts of a controlled substance (e.g., one gram for heroin, two grams for cocaine), as well as anyone with just one prior felony conviction, and it still allows prison sentences of up to one year. West Virginia similarly classifies drug possession as a misdemeanor but increases penalties for prior convictions of any kind. Finally, several states, including Pennsylvania and South Carolina, classify first-time drug possession offenses as misdemeanors, with subsequent drug offenses classified as felonies. Most recently, North Dakota reclassified first-time drug possession from a felony to a misdemeanor in 2017 as a part of the state's justice reinvestment legislation.

Each of the five states that has passed legislation to fully reclassify drug possession has done so in the past four years, with broad bipartisan support among policymakers and voters (table 2).
TABLE 2
Broad Support for Reforms to Reclassify Drug Possession

<table>
<thead>
<tr>
<th>State</th>
<th>Reform type</th>
<th>Title (year)</th>
<th>Vote count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Legislation</td>
<td>Senate Bill 91 (2016)</td>
<td>16-2 Senate 28-10 House</td>
</tr>
<tr>
<td>California</td>
<td>Voter referendum</td>
<td>Proposition 47 (2014)</td>
<td>60% Yes 40% No</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Voter referendum</td>
<td>State Question 780 (2016)</td>
<td>58% Yes 42% No</td>
</tr>
</tbody>
</table>

After too many decades of relying on prisons as the corrective for too many low-level offenses, reform efforts here and elsewhere are an acknowledgement that we need to be smart, not just tough, on crime. The goals are not mutually exclusive. We can reduce both crime and incarceration.

—Santa Clara County District Attorney Jeff Rosen, San Jose Mercury News, October 29, 2015

The Impact of Reclassification

While it is too early to determine the full impact of reclassifying drug possession, initial results have been positive in states that were early adopters. Reductions in the prison population—both the people in prison for drug possession and the prison population overall—in California, Utah, and Connecticut have already occurred, and experts project similar reductions in Alaska and Oklahoma.

Importantly, the reforms in these states also specify that a portion of the prison savings will be reinvested in evidence-based programs that reduce recidivism and improve public safety. California and Utah have already made significant new investments in community-based treatment and supervision programs, and Alaska’s legislation directs the state to reinvest a large portion of the savings.

Projected and Actual Impacts on Prison Populations and Treatment Investments

In California, both state prison and local jail populations have declined as a result of Proposition 47, with as many as 15,000 fewer people incarcerated statewide. State officials estimate that Proposition 47 reduced prison spending by $68 million in the first year alone, and California awarded more than $100
Crime analyses conducted in 2018 found that while rates of certain property crimes in California have increased slightly over the past several years, there is no causal relationship between passage of Proposition 47 and crime.\(^\text{50}\)

Utah and Alaska reclassified drug possession as part of broader Justice Reinvestment Initiative legislation that prescribes how savings from prison population reductions will be allocated. The Utah prison population has declined 9 percent since Governor Gary Herbert signed House Bill (H.B.) 348, fueled in part by a 74 percent decline in new court commitments for drug possession.\(^\text{51}\) The legislation also directs the state to invest more than $10 million in behavioral health programs and training for treatment staff.\(^\text{52}\)

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*We jail more individuals in the United States of America than any other country in the world.... And we can’t simply jail and prosecute our way out of what are public health issues.*

—Salt Lake County District Attorney Sim Gill, as quoted by KUTV News

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Senate Bill (S.B.) 91 in Alaska, which included reclassification among other reforms, is projected to reduce the jail and prison population by 13 percent and yield savings of $380 million by 2024.\(^\text{53}\) Fiscal notes attached to S.B. 91 direct the state to reinvest nearly $100 million of those savings in substance abuse and mental health treatment, reentry support for people leaving prison, violence prevention programming, and crime victim services.

Connecticut budget experts estimate that reclassification of drug possession will reduce the prison population by an estimated 1,120 people during fiscal year (FY) 2016, saving the Department of Corrections $5.3 million in FY 2016 and $9.8 million in FY 2017.\(^\text{54}\) As of December 2017, the population in prison for drug possession had declined 74 percent to only 134 people, including an 80 percent decline in the pretrial population.\(^\text{55}\)

In Oklahoma, state experts estimate that in FY 2018 more than 9,000 people have been diverted from state prison to county custody due to reforms, resulting in $63.5 million in savings. Over the next five years, they estimate roughly $135 million in averted costs, including savings from Department of Corrections facilities, county jail backup, community supervision, and drug courts.\(^\text{56}\) Oklahoma voters also approved a separate referendum (State Question 781) that directs the state to fund substance abuse and mental health treatment through the savings from State Question 780.

**Potential Public Safety Impact of Reforms**

A growing body of evidence demonstrates that incarceration is an ineffective response to drug abuse and that treatment in the community produces better public safety results.\(^\text{57}\) By reducing arrests, felony convictions, and incarceration for drug possession, states can focus limited law enforcement and
criminal justice resources on more serious crimes. Indeed, the states that have reduced imprisonment the most have seen the largest declines in crime.58

Prior research also suggests that reclassifying drug possession will have little effect on the recidivism rates of people convicted of drug possession, and that reducing incarceration and felony convictions can increase opportunities for successful treatment in the community.59 Reducing incarceration for drug offenses can produce significant public safety benefits when paired with investments in drug treatment and crime prevention strategies.60

Recent research by the Pew Charitable Trusts found no statistically significant relationship between rates of imprisonment for drug offenses and three measures of drug problems: rates of illicit use, overdose deaths, and arrests.61 This analysis builds on decades of evidence demonstrating that incarceration increases recidivism for people who are at low risk to reoffend or have needs related to substance abuse, drug addiction, or mental illness.62 Evidence suggests that compared with incarceration, community-based treatment programs are more effective at reducing substance abuse and helping people recover.63

California has already begun studying the public safety impacts of its reforms. Moving forward, every state should conduct rigorous long-term evaluations on the impact of reclassification. These analyses should assess changes in recidivism rates for people convicted of drug possession and in law enforcement practices (drug arrests) and prosecutorial decisionmaking (filings and convictions) in response to drug law violations.

Conclusion and Recommendations
Reclassifying drug possession from a felony to a misdemeanor can reduce the negative impacts imposed on people and communities by felony convictions, reduce imprisonment of people convicted of drug possession, and redirect limited resources to treatment and prevention without negatively impacting public safety.

The five states that have reclassified drug possession represent a wide range of political beliefs and reclassification has broad bipartisan support across the country. Governors from the Republican, Democratic, and Independent parties have signed reclassification legislation, and voters approved reclassification at the ballot in states as diverse as California and Oklahoma. State profiles in the appendix of this report provide more detail on these reforms, including the definition for drug possession, criminal penalties, projected or actual impacts, and reinvestment funding.

But reclassifying drug possession is only one step that states can take to reduce incarceration and reallocate prison spending to less costly and more effective options. Lessons from the states that have reclassified drug possession, and research on the wide gap between state funding of behavioral health programs and treatment needs, suggest the need for a significant shift in how states deal with substance abuse and approach drug policy.

Based on our review of the available evidence and related state policies, we have four recommendations:
Reclassify Drug Possession and Adopt Other Proven Drug Law Reforms

The impact of reclassifying drug possession from a felony to a misdemeanor would be significant in states that have not yet adopted substantial drug policy reforms. Prior Urban analysis shows that eliminating future admissions for drug possession offenses by 2025 would result in substantial reductions in the prison population in states such as Arizona (3,736 fewer people, 8 percent reduction) and Texas (12,668 fewer people, 9 percent reduction).64 Nearly a quarter of prison admissions in Texas are for drug possession (23 percent), and the state sends more people to prison for drug offenses than most states send for all offenses combined.65 In Ohio, which will vote on a ballot initiative in 2018 that proposes to reclassify drug possession from a felony to a misdemeanor, Urban analysis shows eliminating new admissions for drug possession would result in an estimated 6 percent reduction (3,384 fewer people) in the prison population by 2025.66

In addition to reclassifying drug possession, states can adopt numerous reforms that reduce the number of people incarcerated for drug offenses and focus prison space on people who pose the highest risk to public safety. In 2002, Michigan became one of the first states to repeal mandatory minimum offenses for drug offenses.67 Today, only 8 percent of the prison population is incarcerated for a drug offense,68 nearly half the national average of 15 percent.69 New York repealed its notorious Rockefeller drug laws in 2009 and has significantly reduced its prison population while experiencing ongoing declines in crime.70

The Vera Institute of Justice estimates that at least 30 more states have reformed their drug laws and sentencing practices between 2009 and 2013 to reduce prison admissions and time served for drug offenses.71 Many of these states have reclassified drug offenses to reduce the minimum and maximum prison sentences allowed by law; redefined drug offenses by establishing weight-based thresholds for more serious, commercial drug offenses; adopted presumptive probation or increased judicial discretion to impose probation; and eliminated or reduced drug-free zones. These states include South Carolina (2010), Arkansas (2011), Mississippi (2014), Maryland (2016), and Louisiana (2017).72

Allow People with Prior Convictions for Drug Possession to Have Their Crimes Reclassified as Misdemeanors or Expunged Completely

The collateral consequences of a felony conviction are wide ranging and far reaching. With restrictions numbering in the hundreds in many states, people with old felony convictions must overcome numerous obstacles and barriers to success.73 Restrictions that limit access to housing, loans, and child care assistance, along with bans on certain kinds of employment, can impact people’s lives for decades after their conviction, even if they have been rehabilitated and remained crime free.

Voters in California sought to correct this through Proposition 47, which allows anyone with an old felony conviction for an offense being reclassified as part of the ballot initiative to apply for resentencing and a record change. Estimates suggest as many as 1.5 million people may be eligible.74

In states with constitutional or statutory limits on retroactivity, legislators could repeal those policies or limit the restrictions placed on people after they have completed their sentences. Removing
the barriers imposed by old felony convictions can improve opportunities for success, reduce recidivism, and benefit the entire community.  

**Reserve Probation Sentences Only for Those Who Warrant Supervision**

Most people who are convicted of a drug offense, classified as either a felony or misdemeanor, are sentenced to a term of probation supervision. As states reclassify drug possession as a misdemeanor, thereby making people convicted of drug possession ineligible for prison time, it is reasonable to expect more people with drug possession convictions to be sentenced to probation. Strengthening probation and investing in evidence-based supervision practices therefore could improve outcomes for those in the criminal justice system. To achieve the best results for individuals on probation and the community, states should focus scarce supervision resources on the people who present a higher public safety risk and ensure those with the highest needs receive treatment and other behavioral health services.

For people at low risk to recidivate, empirical evidence shows that any supervision can make recidivism outcomes worse. Harvard University’s Executive Session on Community Corrections—a body that includes leaders in law enforcement, corrections, prosecution, and research—recommends reducing probation caseloads by 50 percent in the next 10 years. Alternatives for people at low risk to recidivate include unconditional discharge, community service, automated check-ins through kiosks or other technologies that do not require in-person visits, and other minimally invasive accountability options.

**Invest in More Effective Approaches to Address Substance Use and Expand Access to Drug Treatment for Those Who Need It**

Evidence suggests that investments in behavioral health programs that treat substance abuse disorders offer greater public safety benefits than incarceration for people suffering from addiction. According to the Washington State Institute of Public Policy, which has reviewed hundreds of evaluations of correctional interventions, drug treatment in the community reduces recidivism more than any other program, including in-prison and in-jail treatment programs and drug courts.

Though it is important to acknowledge that not everyone convicted of drug possession needs drug treatment, there is a large unmet need for substance abuse treatment across the nation. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), approximately 21 million people needed substance abuse treatment in 2016, yet fewer than one in five (18 percent) were able to access it. For people with substance use disorders who come into contact with the criminal justice system, treatment availability is sparse in most correctional settings. The National Center on Addiction and Substance Use estimates that more than 6 in 10 people in jail or prison meet the medical criteria for a substance use disorder, yet only 1 in 10 receive treatment while incarcerated, and only about one in three conditionally released people with substance use disorders receive treatment upon release. SAMHSA has found that as many as half of people on probation need treatment, yet less than a quarter are receiving it. The lack of treatment options contributes to high recidivism rates, probation and parole violations (i.e., failed drug tests), and revocations to prison.
Investing in alternatives to incarceration and expanding access to treatment for those who demonstrate substance abuse needs is critical, but it is important to also avoid net-widening effects that can increase contact with the criminal justice system as access to court-ordered treatment expands. Improving law enforcement interactions with people who are abusing drugs or suffering from addiction is critical for reducing drug use and preventing unnecessary contact with the criminal justice system. Many local jurisdictions have begun implementing innovative diversion programs that allow police to refer people to services that address their treatment needs when they are caught possessing illegal drugs. In Seattle, the Law Enforcement Assisted Diversion (LEAD) program empowers police officers to collaborate with case managers and refer people to treatment instead of arrest. An evaluation from the University of Washington has found that LEAD participants have 58 percent lower odds of subsequent arrest than people arrested and booked for similar offenses. LEAD has become a national model, with 17 other cities and 2 counties implementing similar initiatives as of August 2018 and dozens more working to develop them.
OVERVIEW
In 2016, the Alaska Legislature passed Senate Bill (S.B.) 91 with broad bipartisan support. This Justice Reinvestment Initiative legislation includes a provision that reclassifies drug possession from a felony to a misdemeanor for any quantity of any drug (except GHB) and prohibits prison sentences before the third conviction. 80

KEY DETAILS

DEFINITION
Convictions for drug possession are classified as misdemeanor offenses and are ineligible for active imprisonment (drug possession carries a suspended sentence). This applies to all weights and all drugs except GHB.

CRIMINAL HISTORY EXCLUSIONS
Upon a third conviction for drug possession, a person becomes eligible for active prison time for up to one year, though the underlying offense is still classified as a Class A misdemeanor.

RETROACTIVITY
S.B. 91 does not apply retroactively.

IMPACT
No projected impacts exist for the aspects of S.B. 91 specific to drug possession. The legislation as a whole is projected to reduce Alaska’s prison population by 13 percent and result in savings of $380 million by 2024.

REINVESTMENT
Accompanying fiscal notes reinvest $98.8 million over six years in substance use disorder and mental health treatment in prison and the community, reentry supports for those leaving prison, pretrial risk assessments and supervision, violence prevention programming, and crime victim services.

OTHER REFORMS
S.B. 91 also restricts the use of money bail, caps revocation time for technical violations of probation and parole (3, 5, and 10 days), reduces penalties for commercial drug offenses, increases the felony theft threshold, expands parole eligibility, and creates new felony sentencing ranges that reduce the minimum and maximum sentence for most offenses.

In 2014, California voters overwhelmingly approved Proposition 47 with 60 percent support.89 Proposition 47 reclassifies drug possession from a felony to a misdemeanor for any quantity of any drug and prohibits prison sentences for all convictions, except for people with certain criminal histories.

IMPACTS
The impacts of Proposition 47 have been thoroughly studied and include the following:

PRISON AND JAIL POPULATIONS
- The average daily jail population decreased an estimated 6,334 in the first year Proposition 47 was in effect; this represented a 50 percent decrease in the jail population held for Proposition 47 offenses.
- As of September 2015, 4,454 people had been released from state prisons under Proposition 47. California will incarcerate an estimated 3,300 fewer people in prison each year.
- Overall, 15,000 fewer people are incarcerated in state prison and local jails.

DRUG ARRESTS/BOOKINGS/CONVICTIONS
- Jail bookings for Proposition 47 offenses decreased 56 percent (5,382 fewer people) in the first year of implementation.
- Jail bookings for drug possession changes decreased 68 percent in the first year.
- Convictions for offenses impacted by Proposition 47 declined 45 percent (1,625 people) in the first year.
- Overall, there were 119,000 fewer arrests and 55,000 fewer felony convictions in the first year.

FISCAL IMPACT
- In the first year after Proposition 47 was passed, state savings were estimated at more than $150 million, and county government savings were estimated at more than $200 million.
- Total 2016–17 state savings were estimated at $68 million, and the state awarded more than $100 million in grants to local governments.

RESTORATION OF RIGHTS
- Between Proposition 47’s enactment in November 2014 and September 2016, nearly 280,000 petitions were submitted to reduce a felony conviction to a misdemeanor.
- As many as 1 million Californians may be eligible for reclassification.

CRIME RATES AND RECIDIVISM
- Systematic analysis shows no evidence that Proposition 47 caused an increase in violent crime.
- Though some property crime rates increased because of reforms, those trends are limited to larceny thefts, with most of the increase stemming from growth in theft from motor vehicles.
- Overall recidivism rates declined substantially after Proposition 47, with two-year recidivism rates for people released under Proposition 47 3.1 percentage points lower than prereform cohorts.
- Recidivism rate declines were largely driven by reductions in rearrest and reconviction rates for Proposition 47 offenses.
  - Rearrest rates for such offenses were 10.3 percentage points lower than prereform rates.
  - Reconviction rates for such offenses were 11.3 percentage points lower than prereform rates.

CONNECTICUT

OVERVIEW

In 2015, Connecticut passed House (H.B.) Bill 7104 with broad bipartisan support. These reforms reclassify first and second convictions for drug possession from felonies to misdemeanors for all drugs and weights, making them ineligible for prison sentences.

KEY DETAILS

DEFINITION

First and second drug possession convictions are classified as misdemeanor offenses for all drugs and all weights.

CRIMINAL HISTORY EXCLUSIONS

Third and subsequent convictions make an individual eligible for a Class E felony sentence—the lowest felony classification in Connecticut.

RETOACTIVITY

H.B. 7104 does not apply retroactively but allows the Commissioner of Correction to consider the changes when making parole decisions and creates a pathway for anyone convicted of a nonviolent crime to apply for an expedited pardon review process.

PENALTIES

First and second drug possession convictions are misdemeanor offenses punishable by up to one year in jail. Previously, drug possession was a felony punishable by up to seven years in prison for a first conviction and up to 15 years for a second conviction.

IMPACT

In fiscal year 2016, the drug reclassification elements of H.B. 7104 were expected to reduce the prison population by an estimated 1,120 people, saving the department $5.3 million in that year and $9.8 million in fiscal year 2017. As of December 2017, the population in prison for drug possession had declined 74 percent to only 134 people (sentenced population down 71 percent, pretrial population down 80 percent).

REINVESTMENT

H.B. 7104 does not require the state to reinvest prison savings, but additional budget measures passed in the same session increase funding for Second Chance policy initiatives in the Office of Policy and Management, Department of Housing, State Department of Education, and the Department of Mental Health and Addiction Services.

OTHER REFORMS

H.B. 7104 also reclassifies drug possession near a school and other drug-free zones from a felony to a misdemeanor and eliminates the mandatory minimum. The bill contains numerous reforms to the parole process, most notably allowing parole without a hearing for most nonviolent crimes at 50 percent of the sentence.

OKLAHOMA

OVERVIEW

In 2016, Oklahoma voters approved State Question (S.Q.) 780 with 58 percent support. The ballot initiative reclassifies drug possession from a felony to a misdemeanor for all drugs and weights, and it prohibits prison sentences for any conviction.

KEY DETAILS

DEFINITION

Drug possession convictions are classified as misdemeanor offenses for all drugs and all weights.

CRIMINAL HISTORY EXCLUSIONS

There are no criminal history exclusions.

RETOACTIVITY

S.Q. 780 does not apply retroactively.

PENALTIES

All drug possession convictions are misdemeanor offenses punishable by up to one year in jail. Previously, drug possession was a felony punishable by up to 10 years in prison for a first offense.

IMPACT

At the close of fiscal year 2018, state experts estimated that more than 9,000 people had been diverted from state prison to county custody from the reforms, resulting in $63.5 million in savings. Over the next five years, experts estimated roughly $135 million in averted costs, including savings from Department of Corrections facilities, county jail backup, community supervision, and drug courts.

REINVESTMENT

Along with S.Q. 780, Oklahoma voters passed State Question 781. S.Q. 781 mandates that funds saved from the passage of S.Q. 780 are to be deposited into a Community Safety Investment Fund, which will support mental health and substance abuse programs in counties across Oklahoma.

OTHER REFORMS

S.Q. 780 also raises the felony theft threshold from $500 to $1,000.

OVERVIEW

In 2015, Utah passed House Bill (H.B.) 348 with broad bipartisan support. This Justice Reinvestment Initiative legislation, among other things, reclassifies drug possession from a felony to a misdemeanor for first and second convictions for all drugs and weights.

KEY DETAILS

DEFINITION

First and second drug possession convictions are classified as misdemeanor offenses for all drugs and all weights.a

CRIMINAL HISTORY EXCLUSIONS

For a third or subsequent drug possession conviction, possession of a Schedule I or II drug is subject to a third degree felony sentence; a fourth or subsequent conviction of any other drug possession offense (excluding marijuana) is subject to a third-degree felony sentence. Additionally, if a person convicted of drug possession has a previous conviction of a more serious drug crime (production, manufacturing, dispensing, possession with intent), they are sentenced under penalties one degree higher than whatever is prescribed for their offense. For example, a first-time drug possession conviction with respect to a Schedule I or II drug for an individual with a prior drug trafficking offense would be classified as a third-degree felony conviction.

RETROACTIVITY

H.B. 348 does not apply retroactively.

PENALTIES

First and second drug possession convictions are misdemeanor offenses punishable by up to one year in jail. Previously, drug possession was a felony and punishable by up to five years in prison.

IMPACT

Over the last two decades, H.B. 348 is projected to reduce prison population growth by 90 percent, averting $500 million in corrections spending. To date, the reforms have fulfilled projections with the prison population down 18 percent (1,364 people) from estimates without reform. Much of this reduction is attributed to the reforms targeting admissions for drug offenses, and new court commitments to prison for drug possession in fiscal year 2017 were down 74 percent from fiscal year 2014.

REINVESTMENT

Budget reforms passed alongside H.B. 348 reinvested $14 million of the projected savings in community-based treatment and supervision.

OTHER REFORMS

H.B. 348 also narrows the reach of drug-free zones from 1,000 to 100 feet, changes how criminal history is calculated in the sentencing guidelines (e.g., removing points for old felony convictions), creates earned-time credits for participation in risk-reduction programming, and reduces prison sentences by 4–6 months for less serious offenses in the sentencing guidelines.


a 100 pounds or more of marijuana is classified as a second-degree felony.
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See the “LEAD: Advancing Criminal Justice Reform in 2018” map at [https://www.leadbureau.org/](https://www.leadbureau.org/).
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Acknowledgments

This project was supported by the Alliance for Safety and Justice. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute’s funding principles is available at urban.org/fundingprinciples.

The authors also thank Josh Eisenstat who provided substantial research support and developed the foundation for this report, as well as Ryan King, Samantha Harvell, Leah Sakala, and Leigh Courtney, who reviewed the report and provided critical feedback. This analysis would not have been possible without their contributions.