

Support HB 1232 - Defelonize the Possession of Drugs

Bill Summary: HB 1232 would reduce first-time possession, transportation, or use of controlled drugs from a class B felony to an unclassified misdemeanor and subsequent violations to class B felonies or an unclassified misdemeanor at the discretion of the prosecutor. Finally, the legislation would eliminate mandatory minimums and restore judicial discretion to cases involving school zone or drug enterprise leader charges.

Public safety resources should be focused on enhancing public safety. Yet, the vast majority of drug arrests are for possession, not sale, and that trend is going in the wrong direction. There were 4,382 total drug arrests in New Hampshire in 2020, and 87 percent of those arrests (3,806) were for possession.ⁱ In the past 5 years drug possession arrests (27,320 total arrests) comprised 82 percent of all drug arrests (33,465 total arrests).ⁱⁱ In the past 10 years, drug possession arrests (48,376 total arrests) comprised 80 percent of all drug arrests (60,216 total arrests).ⁱⁱⁱ

Saddling people with felony records for the possession of drugs does not make our communities safer. The collateral harms of a felony conviction are tremendous – they inhibit pathways to rejoining communities, including making it more difficult for individuals to secure safe housing, meaningful education, and gainful employment. These obstacles increase the likelihood that individuals will reenter the criminal justice system.

New Hampshire laws are enforced with a staggering racial bias. Despite making up just 1.8 percent of New Hampshire's population,^{iv} Black people comprised 5.8 percent of all arrests and 6.5 percent of all drug arrests in 2020.^v And, this disparity has remained consistent. Black people comprised 5.7 percent of all drug arrests in the past 5 years^{vi} and 5.2 percent over the past 10 years.^{vii} Reclassifying drug possession as a misdemeanor offense provides an opportunity to begin to address the disproportionate harms that New Hampshire's criminal justice system has had on Black and Brown people.

New Hampshire's drug laws are a waste of taxpayer dollars. For decades, this country sought to solve drug use and crime through lengthy incarceration. Federally, and at the state level, drug sentences and fines steadily increased for decades under the belief that eventually we would find the number of years in prison that it took to deter crime. This myth about the effectiveness of incarceration resulted in our state's prison population increasing in size nearly nine-fold between 1980 and 2016, and admissions to New Hampshire prisons increasing by 24 percent. And yet, drug offenses are still the most common offense for people entering NH prisons, accounting for roughly 21 percent of our prison admissions.^{viii} Defelonizing drug possession would also have a major impact on New Hampshire's indigent defense system, as the Public Defender program opens an average of 1,100 to 1,400 straight possession cases each year, which could be substantially reduced under HB 1232.^{ix}

Support HB 1232 – Stop saddling thousands of people with felony records each year for drug possession

ⁱ Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, 2020 data, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

ⁱⁱ Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, past 5 years, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

ⁱⁱⁱ Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, past 10 years, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

^{iv} U.S. Census Bureau, QuickFacts, New Hampshire, available at <https://www.census.gov/quickfacts/NH>.

^v Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, 2020 data, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

^{vi} Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, past 5 years, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

vii Federal Bureau of Investigation, Crime Data Explorer, New Hampshire, past 10 years, *available at* <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

viii ACLU Smart Justice 50-State Blueprint, New Hampshire, *available at* <https://50stateblueprint.aclu.org/states/new-hampshire/>.

ix See HB 1232-FN, Fiscal Note as Introduced, *available at* http://www.gencourt.state.nh.us/bill_Status/billinfo.aspx?id=1516.