

VICE NEWS

Hawaii Is One Step Away From Taking a Close Look at Decriminalizing All Types of Drugs

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Fifteen years ago, Portugal effectively bowed out of the war on drugs. The small European country took the radical step of decriminalizing all drugs — including marijuana, ecstasy, cocaine, crystal meth, and heroin — for personal use. Dealers can still be locked up or slapped with a fine, but anybody caught with less than a 10-day supply faces three outcomes: treatment, a small fine, or no punishment whatsoever. Most people get referred to counseling.

Portugal's system has mostly been a success. Drug use is down overall, and the rates of drug-related deaths and sexually transmitted disease have plummeted. But despite the positive results, no US state has ever seriously considered trying to implement Portuguese-style decriminalization as a solution to the recent nationwide surge in overdose deaths and soaring incarceration rates — at least until now.

The Hawaii State Senate has until April 25 to vote on a bill that would commission a study to explore whether the state should decriminalize all drugs for personal use, including so-called "hard drugs" like meth, cocaine, and heroin. Hawaii's House of Representatives unanimously approved the measure last month, and it has the support of local groups across the political spectrum, from libertarians to immigrant rights advocates.

"As the rest of the country is taking a more constructive approach to the failed war on drugs, it's clear that Hawaii needed some fresh impetus," said Carl Bergquist, executive director of the Drug Policy Forum of Hawaii and one of the measure's key backers. "By studying lessons learned elsewhere, this study will provide just that."

The proposal comes ahead of a special three-day session of the United Nations General Assembly (UNGASS) beginning on April 19, where diplomats from the around the world will gather in New York City to reevaluate global drug policy. Advocates have called for the UN to endorse harm reduction and other approaches that prioritize treatment for drug addicts rather than incarceration.

Hawaii's bill calls for the state's Legislative Reference Bureau (LRB) to conduct the study on Portugal's drug law. It cites a 2009 report on the effects of the country's drug policy by the Cato Institute, a libertarian think tank in Washington, DC, noting that "money saved on drug enforcement allowed for increased resources for drug treatment programs." The proposal says Portugal's system "provides a potential model for more effectively managing drug-related problems in the United States."

The bill's author, Representative Jarrett Keohokalole, told VICE News that he became interested in drug policy reform during law school, when he heard a speech by Major Neill Franklin, an ex-cop and the executive director of the group Law Enforcement Against Prohibition (LEAP). Keohokalole is not convinced that full-on decriminalization is the right way to go, but he wants to learn more before making his final decision.

"I'm not even sure if this is a good idea, having hard drugs be legalized in Hawaii," Keohokalole said. "What I do know is the war on drugs is not working. It's not working in Hawaii, and we've been doing that for over 40 years.... So maybe we should look into something else."

One major obstacle is the fact that no matter what Hawaii decides to do, drugs like cocaine and heroin will remain illegal under federal law.

Keohokalole said that Hawaii must be "mindful" of the federal government's reaction to any state-level drug policies, and he noted that examining how it might respond to Portuguese-style decriminalization would be part of the study.

"When it comes to the illegal importation of drugs and the black market distribution of drugs, I don't think there's a whole lot of difference between what we have now and what we would potentially have," Keohokalole said. "That's the whole reason why I wrote the request to do the study, because we don't really know."

Unsurprisingly, law enforcement groups in Hawaii are opposed to the state conducting the study. Major Sam Thomas of the Hawaii Police Department's Administrative Services Division said that he thinks Keohokalole's proposal is "ill-conceived."

"How do you say that despite what the federal government says and has on their Controlled Substances Act and Schedule I [controlled] substances, we're going to ignore that and go ahead and say it's okay?" Thomas asked, referring to federal drug laws.

But if Hawaii ultimately does decide to embrace decriminalization, it wouldn't be the first time the state has flouted federal drug policy. It was among the first states to legalize medical marijuana in 2000, a move that was prompted in part by an LRB study along the lines of what Keohokalole has now proposed. Eight medical cannabis dispensaries are slated to open across the islands in July.

Most of the state's medical marijuana patients legally get their marijuana — or "pakaololo," as the locals call it — by growing it themselves in a tropical climate that is ideal for year-round yields. Some patients have designated caregivers who can assist them, while others — including recreational users — rely on the black market. State authorities arrest an average of 1,500 people per year for marijuana-related offenses, and individuals without a medical card face a \$1,000 fine and up to a month in jail.

For Thomas, however, the issue has more to do with hard drugs.

"We have the worst meth problem in the United States, and we don't need it to be any worse by condoning usage of illegal drugs," the police official said. "I think we'd have big problems here."

The dubious distinction of having of America's "worst meth problem" usually goes to Midwestern states like Indiana and Missouri, but the Aloha State has earned the title a number of times. In 2011, Hawaii was 410 percent above the national average for "positive workplace drugs tests for methamphetamine." The next closest state was Arkansas, which was 280 percent above the national average.

While heroin and cocaine are also problems in Hawaii, according to 2011 US Department of Justice report, "methamphetamine and marijuana are consuming more drug treatment resources in Hawaii than all other drugs combined."

Hawaii also has a prison overcrowding problem, and a disproportionate number of the state's inmates — 40 percent, as of the 2010 census — are native Hawaiians or Pacific Islanders. Despite experiencing an overall drop in crime, Hawaii's incarcerated population jumped 18 percent from 2000 to 2011, putting its rundown facilities 110 percent over capacity. The state ships approximately a third of its 6,000 prisoners thousands of miles away to the US mainland, which makes it incredibly difficult for those inmates to receive visitors.

Kat Brady, a coordinator for the Community Alliance on Prisons, who gave testimony in support of the decriminalization study, blamed Hawaii's drug policy for the state's prison issues, and said it's time to look at other strategies.

"There's so many things that we could be doing that would be more helpful [than imprisonment]," Brady said. "But we're so into retribution, you know, that we just gotta punish people, rather than say, 'Why do so many people use drugs?'"

Hawaii's drug policies are also impacting immigrants in the state, where nearly a fifth of the population is foreign born. Getting slapped with a drug offense, even a minor one, can have serious consequences for immigrants in Hawaii, including deportation.

"The fact that someone could lose their family, their livelihood, their way of life simply for a drug offense is unacceptable," said Khara Jabola-Carolus, lead staff at the Hawaii Coalition for Immigrant Rights, which also supports the proposed study.

"We need to see it beyond just fighting for papers for people and we need to understand that our drug policy has had really horrendous and unjust effects on immigrants here," she said.

Jabola-Carolus called the proposal step in the right direction, but said it would be "misleading" to label Hawaii's legislature as progressive. She cited SB2179, a bill introduced in the same legislation period that tried to knock possessing drug paraphernalia down from a Class C Felony to a civil violation. The bill, she said, was "pummeled with opposition" and died in committee. Another recent Hawaiian bill that proposed decriminalizing marijuana was not even given a hearing.

Keohokalole said that if his resolution does not pass, he plans to reintroduce the bill next year with an expanded scope exploring decriminalization models in other countries, including Czech Republic, Uruguay, and the Netherlands.