



Oregon's ballot measure to decriminalize all drugs, explained

The ballot measure is trying to move the state from a criminal justice to a public health approach on drugs.

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Oregon may take a big first step toward ending the war on drugs this November, with voters set to decide whether the state will decriminalize all drugs through the ballot initiative Measure 110.

The initiative would decriminalize all drugs, including cocaine and heroin, and redirect the savings — along with sales tax revenue from marijuana, which is currently legal in the state — to setting up a drug addiction treatment and recovery program. It's an attempt to replace the criminal justice approach for drugs with a public health one.

Decriminalization is very different from legalization. In general, decriminalization means the removal of criminal penalties — particularly prison time — for the possession and use of a drug, but not the legalization of sales. So people wouldn't get arrested for having small amounts of heroin or cocaine on them, but don't expect stores legally selling either substance to pop up.

Supporters of decriminalization argue that drug misuse and addiction are public health issues, not problems for the criminal justice system. They claim that criminal prohibition leads to hundreds of thousands of unnecessary, racially biased arrests each year in the US — a costly endeavor, straining police resources and contributing to mass incarceration, that does little to actually help people struggling with drug use. Instead, they advocate for resources to be put toward education, treatment, and harm reduction services. Meanwhile, other laws remain on the books to deal with any crime or violence that arises due to drugs.

Opponents argue that decriminalization would remove a powerful deterrent to trying and using drugs, potentially fueling more drug use and addiction. They claim criminal penalties attached to drug possession can also be leveraged — through, say, drug courts — to push people into addiction treatment they otherwise wouldn't accept. And to the extent there are racial disparities in such arrests, they argue that's a problem with bias in law enforcement and systemic racism across American society in general, not necessarily a result of drug prohibition itself.

Some critics separately question if the ballot initiative would really direct sufficient funding to addiction treatment. The campaign behind the measure claims, citing state analyses, that it would effectively quadruple state funding to recovery services in particular.

Oregon would be the first state to decriminalize all drugs. To date, the most aggressive steps that states have taken to scale back the war on drugs are to **legalize marijuana** and to defelonize all drugs, which can still leave criminal penalties like jail or prison time in place. But actual drug decriminalization is untried in the modern US.

Still, Oregon wouldn't be the first place to decriminalize drugs. Portugal did it in 2001, earning **a lot of continued media coverage (including at Vox)**. The effects seem, on net, positive: Coupled with boosts to drug addiction treatment and harm reduction services, decriminalization **seemed to lead** to more lifetime drug use overall but less problematic use.

Such an approach could have different results in the US. Supporters are hoping that voters in Oregon, however, will at least be willing to give it a try. If voters embrace the approach, and it works, prohibition opponents could use Oregon to make a case for scaling back the war on drugs more broadly — similar to the approach they've taken with **marijuana policies**.

It begins, however, in Oregon.

Oregon's Measure 110 would decriminalize all drugs

Oregon's **Measure 110** would remove criminal penalties for the personal, noncommercial possession of a controlled substance, while giving people caught with small amounts of drugs the option to either pay a fine of no more than \$100 or get a “completed health assessment” done through an addiction recovery center. The measure would decriminalize all drugs classified Schedule I through IV under the law, including cocaine, heroin, and meth.

According to the **Oregon Criminal Justice Commission**, the measure would lead to a roughly 91 percent decrease in drug possession arrests and convictions in Oregon. Black and Native American people, who are currently overrepresented relative to their population for possession arrests and convictions, would disproportionately benefit.

The measure would also direct savings from law enforcement and incarceration costs as well as tax revenue from marijuana sales to a new drug addiction treatment and recovery program. The funds would be overseen by an oversight council set up by the Oregon Health Authority made up of treatment providers, a harm reduction services provider, a drug researcher, and people who've dealt with addiction, among others. The funds will be audited by the secretary of state's office at least once every two years.

The measure, in other words, takes a two-pronged approach to drug decriminalization: It tries to eliminate the criminal justice system's role in simple drug possession, while shifting the issue to a public health system by both facilitating health assessments and directing more funds to addiction treatment and harm reduction services.

The potential benefits aren't just fewer arrests and convictions, but also a reduction in the collateral damage that can come from those arrests and convictions, including a criminal record that makes it harder to get a job, housing, schooling, or a range of social services.

At the same time, the reality is America's addiction treatment system is still underfunded and underregulated. As **Vox's Rehab Racket series** exposed, the current system is full of

questionable programs that don't provide evidence-based treatment but nonetheless can cost tens of thousands of dollars out of pocket.

There's also some cause for concern that state funds will flow to substandard treatment providers. Local, state, and federal governments already offer some funds and grants for addiction treatment facilities. But many of the agencies that give out these funds often fall under heavy lobbying by the industry — leading them to perpetuate the broken system as it exists today.

Oregon's measure tries to chip away at these problems by setting aside a pot of funds overseen by a council tasked with ensuring the money is spent wisely.

Critics of Measure 110 **maintain** that it would **fail to live up to its promise**. They argue that the reallocation of existing spending isn't enough to fully fund drug addiction treatment services. And some, like Oregon Council for Behavioral Health Executive Director Heather Jefferis, argue the reallocation would take away funds from services, including education and behavioral health, that currently help prevent addiction. "Shifting funds from one part of the continuum of care to another does not equate to increased funding," Jefferis told me.

The campaign **counters**, citing in part a **state analysis**, that Measure 110 would effectively add more than \$100 million a year for addiction recovery services in particular — up from the \$25 million a year that Oregon **currently spends outside of Medicaid and the criminal justice system**. "This measure is a big step forward," Peter Zuckerman, campaign manager for Yes on 110, told me. "But," he acknowledged, "it doesn't solve everything."

The opposition, backed particularly by law enforcement, also argues the measure will lead to more drug use and addiction — as criminal penalties can no longer be used or leveraged to deter people from drug use and direct them to treatment.

While drug courts built on penalties for drug-related crimes do help some people struggling with misuse or addiction, the question is if the threat of jail, prison, or a criminal record is really necessary to get people to treatment. A criminal penalty may even have the opposite effect — deterring people from getting help because they know that, in effect, they'll be admitting to a crime and possibly exposing themselves to all the consequences that come with that.

Given that decriminalization is so far untried in the US, it's difficult to say how it would play out. In that sense, Measure 110 would create a real-time experiment for Oregon and the rest of the country.

But first, Oregon's measure will need to get voters' approval. It's unclear how likely it is to pass, due to a lack of polls. But a few big political actors in the state, including the **Oregon Democratic Party**, have backed the proposal.

Measure 110 is somewhat similar to the Portugal model

There's no modern example of decriminalization within the US for Oregon voters to draw from. But the measure does very loosely follow the structure of what Portugal did back in 2001: The

country decriminalized all drugs, and pushed people toward better funded and supported treatment and harm reduction services.

A 2009 **report** from the libertarian Cato Institute, written by Glenn Greenwald, concluded that decriminalization spared people from the “fear of arrest” when they sought help for their addiction and “freed up resources that could be channeled into treatment and other harm reduction programs.”

After the change, Portugal saw a decrease in drug-related deaths and drops in reported past-year and past-month drug use, according to a 2014 **report** from the Transform Drug Policy Foundation, which advocates for legalization. But it also saw an increase in lifetime prevalence of drug use, as well as an uptick in reported use among teens after 2007.

Nicholas Kristof wrote in the New York Times in 2017, after visiting Portugal to see its model in action:

After more than 15 years, it’s clear which approach worked better. The United States drug policy failed spectacularly, with about as many **Americans dying last year of overdoses** — around 64,000 — as were killed in the Vietnam, Afghanistan and Iraq Wars combined.

In contrast, Portugal may be winning the war on drugs — by ending it. Today, the Health Ministry estimates that only about 25,000 Portuguese use heroin, down from 100,000 when the policy began.

Crucially, Portugal adopted special commissions that attempt to push people with drug addictions to treatment with the threat of penalties, including fines and the revocation of professional licenses. Although the success of the commissions has yet to be thoroughly evaluated, it’s possible that even as decriminalization increased drug use, the commissions and improved access to treatment got so many people off drugs that use fell or held steady overall.

The requirement in Oregon’s measure for a completed health assessment via an addiction recovery center could work similarly to Portugal’s commissions, pushing people to get care instead of paying a fine. But it remains to be seen if these assessments will provide enough encouragement to seek treatment, or if people will generally decide to pay the \$100 fine instead of getting the assessment done.

Also similar to Portugal, Oregon’s measure is pushing to put more money toward addiction treatment. But a lingering question is if the Oregon measure will truly match the scale of Portugal’s big investment into its own addiction treatment system — particularly towards evidence-based approaches like **medications for opioid addiction** and **needle exchanges**.

Given these potential differences, Oregon’s approach may not work as well as Portugal’s. But if voters adopt the measure, it would be as close to the Portugal model as any state has gotten in modern times. And if it works, drug policy reformers could leverage the example to spread the idea around the country.

This is part of a broader effort to scale back the war on drugs

Over the past decade, progressives have increasingly called to “end the war on drugs” — citing, in particular, the **vast racial disparities in anti-drug law enforcement**. While some lawmakers have taken up that call, legislation has often lagged behind what progressive activists — and voters — support. So activists and voters have begun to take matters into their own hands with ballot measures.

Marijuana legalization is one such example. There’s a lot of support for marijuana legalization, with even a majority of Republicans, who are typically more skeptical of drug policy reform, backing the change in **public polls**. Yet progressive politicians have lagged behind voters on this issue — for instance, former Vice President Joe Biden, the Democratic nominee for president, **opposes marijuana legalization** (though he backs decriminalization).

Rather than wait for politicians to catch up, activists have gone through the state ballot initiative process to get the change they want. In 2012, that approach made Colorado and Washington the first two states to legalize marijuana. Nine more states, and DC, have since followed (although two states, Illinois and Vermont, did so through their legislatures). **Four other states** have legalization measures on the ballot in November.

Given their successes with marijuana, drug policy reformers are now looking for other ways to scale back the war on drugs through ballot measures. That includes Oregon’s drug decriminalization measure, as well as **other ballot measures**, including one in Oregon, involving psychedelic substances. The question now is if the voters will be as receptive to these ideas as drug policy reformers hope they are.

If voters do prove receptive, that could make the new measures the beginning of a broader push in the next few years, similar to what the US has already seen with marijuana. But first, we’ll have to see how the vote works out in Oregon this November.