

Summary of the Drug Policy Reform Act (DPRA) of 2021

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Section 1: Short Title

Section 2: Findings

- Identifies the ineffectiveness and harms of the War on Drugs and the policies centered on criminalization and punishment.

Section 3: Sense of Congress

- Calls for the United States and Congress to “refocus its strategies” for addressing substance use and turn to a strategy that is “health-focused, evidence-based, and respectful of self-determination.”

Section 4: Shift Regulatory Authority

- Authority and criteria for classification of substances will move out of the hands of the U.S. Attorney General to the Secretary of Health and Human Services (HHS).
 - This shift emphasizes that substance use is a health issue and not a criminal issue.
- Within 180 days of passage, the U.S. Attorney General and the Secretary of HHS shall jointly develop and submit to Congress a plan to ensure that information and resources necessary for responsibilities under the Controlled Substance Act are successfully transferred from the Department of Justice (DOJ) to HHS.

Section 5: Eliminates Criminal Penalties for Personal Use Possession

- Eliminates criminal penalties for personal use possession of all scheduled drugs (marijuana, heroin, crack/cocaine, etc.).
- Individuals may still be fined for drug possession, but the court may waive this fine if it determines that an individual cannot pay.
- Eliminates eligibility for Byrne or COPS grant programs for states and localities that maintain criminalization of personal use drug possession.

Section 6: Commission on Substance Use, Health, and Safety

- Within 180 days of enactment of the bill, HHS will establish a “Commission on Substance Use, Health, and Safety.”
 - The goal of this commission is to determine the benchmark amount for personal use drug possession. The Commission will provide recommendations to the Secretary based on the following considerations: 1) common patterns of use by typical consumers of the drug, 2) differences in commonly possessed quantities resulting from factors relating to geography, income, employment, and other related demographic characteristics, and lastly, 3) differences in commonly possessed quantities resulting from varying modes of use.
 - The commission will be comprised of eighteen (18) members:
 - Two persons who currently use drugs
 - Two persons who have lived with or currently live with a substance use disorder
 - Two members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for drug offenses
 - One peer support specialist
 - A harm reduction service provider
 - A person specializing in housing services for people with substance use needs or mental health needs
 - A physician specializing in addiction medicine and with expertise in treatment of opioid use disorders with methadone and buprenorphine

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- A provider of evidence-based substance use disorder treatment
- A provider of evidence-based services for people with co-occurring mental health and substance use needs
- A licensed clinical social worker with expertise in providing intensive case management to people with substance use needs
- A person who works for a nonprofit organization that advocates for persons with substance use needs
- An expert on criminal legal reform who is not a law enforcement officer
- An academic researcher specializing in drug use or drug policy
- A person who represents the needs of and concerns of Indigenous communities
- A designee of the Department of HHS as a non-voting member
- Terms for advisory board members will be for 3 years but the HHS Secretary may reappoint them.
- The Commission would hold at least two meetings per calendar year to establish and/or review the benchmarks.
- Report Requirements
 - No later than eighteen (18) months after the date of enactment, the Secretary of HHS shall publish online a report on personal use guidelines including, 1) guidelines for the benchmark personal use supply for each drug, and 2) recommendations for preventing the prosecution of individuals possessing, distributing, or dispensing personal use quantities of each drug for purpose of subsistence distribution.
 - This information will all be shared with the DOJ.

Section 7: Expungement and Sealing of Records

- No later than one year after enactment, each Federal district (courts) will review cases in order to automatically seal records that involve charges of drug possession offenses decriminalized by this Act. There will also be an order to respect an expunged conviction or adjudication of juvenile delinquency.
- Individuals with a conviction or adjudication of juvenile delinquency for an offense decriminalized by this Act may file a motion for expungement.

Section 8: Relief for People Currently Incarcerated or on Supervision for Certain Drug Convictions

- Mandates a sentencing review hearing for individuals with qualifying convictions for offenses decriminalized by this Act. Identified individuals who have been charged with an offense decriminalized by this bill will have their sentence vacated.
- If an identified person is low-income, counsel will be appointed to represent them in any sentencing review proceedings.
- Prohibits the drug testing of individuals in order to receive federal benefits.
- Drug use charges/convictions will no longer be a reason to deny people the following:
 - SNAP and TANF
 - Housing Assistance
 - Other federal benefits
- Prohibits the denial of employment or termination based upon a criminal history for simple drug possession.
- Individuals with charges or convictions of drug possession/use cannot be denied the right to vote no matter if they served their sentence or not. There is also a process to restore the right to vote for those who have been impacted in the past.
- Prohibits the use of civil asset forfeiture in cases where a person is suspected of “possessing a quantity of controlled substance solely for personal consumption.”
- Eliminates immigration-related consequences for personal use drug possession.
- Removes the federal requirement to suspend driver’s licenses because of drug convictions.

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Section 9: Invest Funds to Promote Health and Safety

- Directs the Secretary of HHS to establish a grant program to support initiatives that expand access to substance misuse treatment, connect people to harm reduction services, and reduce the criminalization of individuals who use drugs.
 - Grants will be available for the following:
 - Low barrier substance use disorder treatment that is evidence-informed, trauma-informed, culturally responsive, patient-centered, and non-judgmental (including medication assisted treatment)
 - Harm reduction programs and systems for connecting individuals to harm reduction interventions
 - Peer support and recovery services
 - Non-police crisis intervention and emergency response programs
 - Pre-arrest diversion programs
 - Transitional, supportive and permanent housing for people living with substance use disorder

Section 10: Data Collection, Transparency, and Evidence-Based Drug Education and Research

- Federally funded education regarding drug use and its effects must be scientifically-accurate, culturally competent, trauma-informed and evidence-based information, including information that helps individuals develop personal and social strategies to manage the risks, benefits, and potential harms of substance use.
- Improves research on impact of drug criminalization and enforcement on public health and safety.
- Improves data collection and transparency on all available data related to enforcement of drug laws, including local arrests for drug possession and distribution offenses, possession of drug paraphernalia, public intoxication, loitering, and all other drug-related violations.