Despite widespread support for drug policy reform, marijuana remains criminalized at the federal level. To date, a majority of states—38 states and Washington, D.C.—have already decriminalized marijuana or authorized its medicinal use.\(^1\) Despite decriminalization in many states, hundreds of thousands of people are arrested and jailed for marijuana possession every year as a result of current federal law.\(^2\) People of color, particularly Black people, are far more likely to be arrested for marijuana possession than white people as a result of racist drug stereotypes and systemic racism in the criminal legal system. State ballot initiatives to legalize and decriminalize marijuana across the country have successfully passed across the nation with bipartisan support. Congress is considering legislation that could help end the racially unjust war on drugs.

**Congressional State of Play**

House Judiciary Committee Chairman Jerrold Nadler (D-NY) and Vice President-elect Kamala Harris (then Senator) introduced the Marijuana Opportunity Reinvestment and Expungement Act of 2019 (MORE Act) on July 23, 2019—**H.R. 3884** and **S.2227**. The MORE Act decriminalizes marijuana at the federal level by removing marijuana from the list of scheduled substances under the **Controlled Substances Act (CSA)** and eliminating all criminal penalties including retroactive charges, arrests, and convictions for anyone who manufactures, distributes, and possesses the drug.

Under the MORE Act, a trust fund will be established to invest in local communities with a measure that would impose a 5 percent tax on cannabis products with the revenue deposited into the fund. Half of the amount in the trust fund would be used to support communities ravaged by the drug war with job training, health education, and legal aid while the other amounts would be used to support various programs and services for individuals and businesses.\(^3\) Additionally, the MORE Act would make **Small Business Administration loans** and services available to marijuana businesses or service providers.

On November 20, 2019, the House Judiciary Committee **passed** the MORE Act by a vote of 24-10. On November 9, 2020, House Majority Leader Steny Hoyer **announced** that the House will vote on the MORE Act in December 2020.

**The War on Drugs**

**Criminalization of Marijuana**

In 1970, President Richard Nixon signed the CSA into law, which **classified** marijuana under Schedule 1—drugs that are considered to be highly addictive and are not accepted for medical use.\(^4\) In June 1971, President Nixon declared a “War on Drugs,” where he “increased federal funding for drug-control agencies and proposed strict measures, such as mandatory prison

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2. Ibid.
sentencing, for drug crimes. He later created the Drug Enforcement Administration (DEA) to target criminalized drug use and smuggling in the U.S., which today has a budget of more than $2 billion. The War on Drugs has torn apart communities across the country—particularly Black communities—while failing to reduce substance abuse. From its inception, millions of Black, Brown, and Indigenous people have been targeted by this unjust, racist policy. In 1994, President Nixon’s counsel and assistant for domestic affairs revealed that this was an effort to criminalize entire communities and a means of social control and surveillance on the Black community.

**Disproportionate Impact on BIPOC Communities**

Black, Brown, and Indigenous communities have been especially criminalized and harmed by the discriminatory and wasteful War on Drugs. For decades communities of color have been targeted with unwarranted arrests and massive prison sentences for possession of marijuana. This has led to a number of collateral consequences including loss voting rights, loss of access to housing, discrimination in employment, and restrictions on federal benefits as well as being separated from family and loved ones. In 2017, 27 percent of people who were arrested for drug law violations were Black, although Black people make up only 13.4 percent of the U.S. population.

From 2010 to 2018, more than 6.1 million marijuana arrests were made. According to the ACLU, as of 2018, there were more marijuana possession arrests made than for all violent crimes combined and a Black person is 3.64 times more likely to be arrested for marijuana than their white counterpart. The Drug Policy Alliance also found that prosecutors are two times more likely to pursue a mandatory minimum sentence for Black people than for white people. Additionally, “nearly 80 percent of people in federal prison for drug offenses and almost 60 percent of people in state prison for drug offenses are Black or Latino.”

Advocates across the country are calling for marijuana legalization and drug decriminalization to dismantle the Drug War as one critical step toward racial justice and criminal legal system reform. It’s time to end the War on Drugs, once and for all.

**Widespread Support for Drug Policy Reform**

**Public Opinion on Marijuana**

As of November 2019, two-thirds of Americans said marijuana should be legal. The support for legalizing marijuana has steadily increased over the past decade. A 2019 Pew Research Center poll on legalizing marijuana found that:

- From 2010 to 2019, the share of U.S. adults who oppose legalization of marijuana fell from 52% to 32%;
- 91% of U.S. adults say marijuana should be legal either for medical and recreational use;
  - 59% support legalizing marijuana for medical and recreational use;
  - 32% support legalizing marijuana just for medical use;
- Fewer than one-in-ten, or 8%, prefer to keep marijuana illegal in all circumstances;

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2. Ibid.
4. Ibid.
7. Ibid.
11. Ibid.
Nearly eight-in-ten, or 78%, Democrats and Democratic-leaning independents say marijuana use should be legal;

55% of Republicans and Republican leaners support legalizing marijuana;

A majority of all Millennials (76%), Generation X (65%), and Baby Boomers (63%) say marijuana should be legal.

The findings of an October 2019 Gallup’s annual Crime survey also found a majority of Americans support legalizing marijuana:

- “66% of Americans in 2019 favor making marijuana usage legal, which was the same finding in 2018;
- 76% of Democrats, 68% of Independent voters, and 51% of Republicans support legalizing marijuana;
- 74% of non-Hispanic Black people, 66% of non-hispanic white people, and 57% of Hispanics support legalizing marijuana.”

**Bipartisan Support for the MORE Act**

A national poll conducted by Data for Progress, The Justice Collaborative Institute, and Fair and Just Prosecution found strong bipartisan support for the MORE Act. The following are the findings of the national poll:

- “58% of likely voters, including 54% of Republicans, think that the federal government should legalize the use and sale of marijuana;
- 69% of likely voters, including 67% of Republican voters, believe the federal government should respect the rights of individual states that have already legalized marijuana sales and not pursue legal action against them;
- 63% of likely voters, including 59% of Republicans, believe that some tax funds from the sale of marijuana should go to the community reinvestment funds to support the communities most harmed by punitive drug policy;
- 65% of likely voters, including 67% of Republicans, agree that marijuana tax dollars provide valuable revenue for states;
- Even in states where marijuana remains illegal, 60% of likely voters, including 58% of Republicans, believe that police should stop arresting people for the possession of marijuana intended for personal use; while 55% overall, and 50% of Republicans, believe policy should stop arresting people for the sale of small quantities of marijuana;
- 62% of likely voters, including 60% of Republicans, support the MORE Act when asked about its specific provisions.”

**State Reform Initiatives**

The following table lists the states that voted to legalize and decriminalize marijuana from 2018-2020 through ballot measures or through the state legislature. It also highlights which party had state control or which party took control of their state legislature when these initiatives passed. Regardless of political party in power, voters and legislators overwhelmingly supported ballot measures and legislation to decriminalize marijuana and drug policy reform.

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<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
<th>Proposal Details</th>
<th>Party with State Control (if legislation passed) or Election Results (if passed via ballot measure) during indicated year</th>
</tr>
</thead>
</table>
| Vermont      | 2018 | Legalizes marijuana through state legislature<sup>18</sup>                        | ● Governor: R  
● Lt Governor: D  
● State Senate: D  
● State House: D |
|              |      | *First state to pass through legislature                                         |                                                                                                                         |
| Indiana      | 2018 | Legalizes CBD for any use through state legislature<sup>19</sup>                 | ● Governor: R  
● State Senate: R  
● State House: R |
| Kansas       | 2018 | Legalizes CBD for any use through state legislature<sup>20</sup>                 | ● Governor: D  
● State Senate: R  
● State House: R |
| Oklahoma     | 2018 | Voter ballot measure to legalize medical marijuana<sup>21</sup>                   | ● Governor: R  
● State Senate: R  
● State House: R |
| Michigan     | 2018 | Voter ballot measure to legalize recreational marijuana<sup>22</sup>              | ● Governor: D  
● State Senate: R  
● State House: R |
| Missouri     | 2018 | Voter ballot measure to legalize medical marijuana<sup>23</sup>                   | ● Governor: R  
● State Senate: R  
● State House: R |
| Utah         | 2018 | Voter ballot measure to legalize medical marijuana<sup>24</sup>                   | ● Governor: R  
● State Senate: R  
● State House: R |
| New Mexico   | 2019 | Decriminalizes marijuana through state legislature<sup>25</sup>                  | ● Governor: D  
● State Senate: D  
● State House: D |
| North Dakota | 2019 | Decriminalizes marijuana through state legislature<sup>26</sup>                  | ● Governor: R  
● State Senate: R |

<sup>24</sup>“Medical cannabis sales begin, home delivery and drive through access approved.” Marijuana Policy Project, May 2020, https://www.mpp.org/states/utah/  
<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
<th>Legislation</th>
<th>Governor</th>
<th>State Senate</th>
<th>State House</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>2019</td>
<td>Legalizes recreational marijuana, including its commercial sale through state legislature&lt;sup&gt;27&lt;/sup&gt;</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Hawaii</td>
<td>2019</td>
<td>Decriminalizes marijuana through state legislature&lt;sup&gt;28&lt;/sup&gt;</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Virginia</td>
<td>2020</td>
<td>Decriminalizes marijuana through state legislature&lt;sup&gt;29&lt;/sup&gt;</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Vermont</td>
<td>2020</td>
<td>Legalizes commercial recreational marijuana through state legislature&lt;sup&gt;30&lt;/sup&gt;</td>
<td>R</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Arizona</td>
<td>2020</td>
<td>Voter ballot measure to legalize recreational marijuana&lt;sup&gt;31&lt;/sup&gt;</td>
<td>R</td>
<td>R</td>
<td>D</td>
</tr>
<tr>
<td>Montana</td>
<td>2020</td>
<td>Voter ballot measure to legalize recreational marijuana&lt;sup&gt;32&lt;/sup&gt;</td>
<td>D</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>New Jersey</td>
<td>2020</td>
<td>Voter ballot measure to legalize recreational marijuana&lt;sup&gt;33&lt;/sup&gt;</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>South Dakota</td>
<td>2020</td>
<td>Voter ballot measure to legalize recreational marijuana&lt;sup&gt;34&lt;/sup&gt; <em>first state to legalize recreational use without legalizing medical use first</em></td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>Mississippi</td>
<td>2020</td>
<td>Voter ballot measure to legalize medical marijuana&lt;sup&gt;35&lt;/sup&gt;</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
</tbody>
</table>


| Oregon | 2020 | Voter ballot measure to decriminalize drug possession and has expanded access to addiction services[^36] | • Governor: D  
• State Senate: D  
• State House: D |