

# Ohio Issue 2 wouldn't expunge marijuana convictions. Here's what it does instead

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When Illinois legalized recreational marijuana, Democratic Gov. J.B. Pritzker dubbed it the most "equity-centric" cannabis law in the country.

"I'm so proud that our state is leading with equity and justice in its approach to cannabis legalization and its regulatory framework," Pritzker said in a statement after signing the bill. "Because of the work of the people here today and so many more all across our state, Illinois is moving forward with empathy and hope."

Illinois and several other states have used recreational marijuana programs to wipe criminal records and ease sentences for certain marijuana crimes. Ohio Issue 2, which voters will decide on Nov. 7, doesn't do that.

Instead, the proposed law would create a social equity program to support business owners who have been disproportionately affected by marijuana prohibition. But that part of the measure is controversial – and it ultimately doesn't guarantee the Legislature will pursue criminal justice reform if Issue 2 passes.

"I think this is a huge opportunity to really look at what is currently happening, how we want to address it for our communities and make sure that we don't forget that there are still people incarcerated for a crime that we are about to legalize," said Jason Ortiz, director of strategic initiatives for the Last Prison Project.

## **What is the social equity program under Issue 2?**

Ohio voters will decide next week whether to enact Issue 2, which would allow adults 21 and older to buy, grow and possess marijuana. Products would be taxed 10% on top of the state sales tax, and more than one-third of the revenue would go toward the social equity program.

Through that initiative, the state would provide eligible business owners with grants, loans, technical assistance and reduced license and application fees. The Department of Development would decide who qualifies, but it must generally include people who are disadvantaged based on race, gender, ethnicity or economic status. People with marijuana arrests or convictions on

their record – or with a parent, child or spouse who has one – would also be eligible.

Critics say that could put former convicted drug dealers or their family into the marijuana business.

"I really kind of scratched my head on this," said John Coats, a pastor at the Metropolitan Church of God In Christ in Reynoldsburg. "Why not train former drug dealers in the construction trades or ... teach them how to string wires or electronics or plumbing or something? You put them back in the drug selling business?"

Tom Haren, a spokesman for the Coalition to Regulate Marijuana Like Alcohol, rejected that argument, noting state regulators get the final say over who can participate. He said the program is designed to diversify Ohio's marijuana industry while providing resources to study further criminal justice reform.

"We do recognize that prior convictions for marijuana-related offenses, as we've been talking about throughout the campaign, have enormous consequences for people and their families," Haren said. "We're trying to both correct the errors of prohibition while ensuring we have a representative history here in Ohio."

## What happens if Issue 2 passes?

Ohio requires initiated statutes to contain only one proposed law, and Haren said that limited the coalition's ability to include more criminal justice policies. But it also sets Ohio's proposal apart from programs in other states.

Illinois guaranteed automatic expungements or pardons for certain possession offenses, and it allowed some people to file a motion to vacate their convictions. The program also reserved licenses for social equity applications, but that process has been plagued by lawsuits and delays, according to the Illinois Answers Project.

Connecticut immediately erased convictions for the possession of less than 4 ounces of marijuana. California's Proposition 64 allowed incarcerated individuals to petition for a reduced sentence and created a statewide process for reviewing marijuana-related convictions. An amendment approved by Missouri voters expunged specific offenses, including all misdemeanors, and allowed nonviolent offenders to request early release.

Rep. Juanita Brent, D-Cleveland, called Issue 2 a first step, but she believes more work is needed to keep people from making money off a system that's disproportionately harmed people of color.

"We're talking about people allowing adult-use, but we're not dealing with all the years of criminalization that's occurred within our system," Brent said. "It's short-sighted."

Because Issue 2 is an initiated statute, the Legislature can modify the law if voters approve it. Knox County prosecutor Chip McConville said prosecutors would need lawmakers to clarify what's legal and how an adult-use marijuana program would work on a daily basis. He's against Issue 2 – particularly the social equity program – but he expects some of the ins and outs to be determined through the rulemaking process.

"If we're out of the business of prosecuting marijuana offenses, so be it," McConville said. "But it's unwinding prior judgments and convictions that is going to be complicated."

Brent and other Democrats say looking at criminal justice reform is a must if Issue 2 passes. A bipartisan bill from Reps. Casey Weinstein, D-Hudson, and Jamie Callender, R-Concord, would allow Ohioans to apply for expungement under an adult-use program, and Weinstein wishes that language was in Issue 2.

But he also believes both Republicans and Democrats have the will to pursue that kind of policy.

"(Marijuana) provides so many benefits to so many communities across Ohio," Weinstein said. "A big part of that is making it right for the communities that have been unfairly and disproportionately impacted by this."

*Kayla Bennett, a fellow in the E.W. Scripps School of Journalism's Statehouse News Bureau, contributed to this report.*