

Defelonization: Reducing Drug Penalties for Use and Possession from Felonies to Misdemeanors

**We are
the Drug
Policy
Alliance.**

What does defelonization mean?

Defelonization means that drug possession penalties have been reduced from a felony to a misdemeanor. Defelonization is not decriminalization, a term defined as the full removal of criminal penalties for use and possession.

States that Treat Possession as a Misdemeanor

32 states still consider simple possession of small amounts of drugs like cocaine or heroin a felony, while 18 states, as well as Washington, DC and the federal government, treat possession as a misdemeanor. The 18 states are: CA, CT, DE, IA, ME, MA, MS, NY, OK, OR, PA, SC, TN, UT, VT, WV, WI, and WY.

Recent Defelonization Initiatives:

California “defelonized” drug possession in 2014 by passing Proposition 47, “The Safe Neighborhoods and Schools Act,” an overwhelmingly popular voter initiative. The new law changed six low-level crimes, including drug possession, from felonies (or “wobblers” – crimes that can be charged as either felonies or misdemeanors) to misdemeanors, retroactively and prospectively. Since its passage, more than 13,000 people have been released and resentenced – saving the state an estimate \$156 million in incarceration costs. This money is being reinvested in drug treatment and mental health services, programs for at-risk students in K-12 schools, and victim services. The law is significantly easing notorious (and unconstitutional) jail overcrowding in California counties.

On the Nov. 2016 ballot, **Oklahoma** reclassified some drug and property crimes as misdemeanors. The initiative passed with 58% of the vote. It changed certain non-violent drug- and theft-related crimes from felonies to misdemeanors, which come with a maximum penalty of one year in prison and a fine of \$1,000, thereby reducing the number and duration of state prison sentences for those crimes. It also called to redistribute the money saved by the reduced prison costs to counties to fund rehabilitation and social supports.

This past summer, **Oregon’s** Governor signed into law a bill that would make first-time drug possession offense from felonies to misdemeanors.

Benefits of Defelonization

- Allows the criminal justice system to focus precious and limited resources on more serious crimes;
- Reduces criminal justice system costs;
- Saves taxpayers’ dollars;
- Allows people to be productive citizens. Felony convictions can prevent people from getting jobs, loans and housing;
- Better enables individuals, families, communities and local governments to deal with drug misuse as a health issue rather than criminal issue.

Data Snapshot: Possession Arrests By Santa Fe Police Department.

Between July 1, 2016 and May 31, 2017 (11 months) there were 229 arrests for possessing a controlled substance other than marijuana, 61 arrests for trafficking and/or distributing a controlled substance, and 156 arrests for possessing drug paraphernalia.

Summary of NM's Penalties (other than marijuana)

Controlled Substances Act, Section 30-31-23, NMSA 1978 (Laws 1972, Chapter 84)

Amount	Drug	Penalty
Any Amount	Schedule I & II drugs, i.e. opiates, methamphetamine, cocaine, LSD, MDMA, psilocybin, etc.	4th Degree Felony: 18 months imprisonment and the court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed \$5,000
Possession in a School Zone		3rd Degree Felony: three years imprisonment and the court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed \$5,000

2014 NM Drug Possession Arrests/Agency

Source: Bureau of Justice Statistics/FBI Crime Reporting

Agency	# of Possession Arrests	# of Sales, Manufacturing
Albuquerque PD	422	717
Angel Fire	1	3
Artesia PD	6	14
Aztec PD	68	11
Bayard PD	6	1
Bern. Co	177	617
Bernalillo PD	45	2
Bloomfield PD	32	6
Carrizozo PD	2	1
Chaves Co.	32	1
Cibola Co.	1	2
Clovis PD	83	44
Colfax Co.	7	1
Clayton PD	6	
Corrales PD	1	1
Curry Co.	10	10
Deming PD	55	2
Dexter PD	6	0

Dona Ana Co.	482	23
Edgewood PD	34	8
Espanola PD	144	28
Eunice PD	9	0
Farmington PD	133	393
Gallup PD	0	12
Guadalupe Co.	3	0
Jal City PD	5	2
Las Vegas	11	1
Lea Co.	12	1
Lincoln Co	15	0
Lordsburg	13	7
Luna Co	1	0
Milan PD	10	6
Mora Co	4	2
Motor Transportation	25	7
NM State Police	14	4
Otero Co.	102	0
Peralta	27	4
Raton PD	6	13
Rio Arriba Co.	40	11
Rio Rancho PD	358	13
Roswell PD	437	30
Ruidoso PD	12	0
San Juan Co.	155	31
Santa Fe PD	208	32
Santa Rosa PD	12	0
Sierra Co.	10	0
Socorro PD	64	3
Socorro Co.	4	4
Taos Co.	7	0
Taos PD	58	1
Tatum PD	2	0
Tucumcari	2	0
Valencia Co.	30	2
Total	3409	2071

*These charges may not be the highest or only charge

**Data includes marijuana

***If an agency is not listed, it either did not report to the FBI, or did not have any arrests