



JANUARY 2024

Mapping Cannabis Social Equity:

Understanding How Ohio Compares to Other States' Post-Legalization Policies to Redress Past Harms



THE OHIO STATE UNIVERSITY
MORITZ COLLEGE OF LAW

DRUG ENFORCEMENT
AND POLICY CENTER

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Mapping Cannabis Social Equity: Understanding How Ohio Compares to Other States' Post-Legalization Policies to Redress Past Harms

Jana Hrdinová and Dexter Ridgway
Drug Enforcement and Policy Center, Moritz College of Law, The Ohio State University

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INTRODUCTION

On November 7, 2023, Ohio became the 24th state in the nation to legalize marijuana for adult recreational use. Following the lead of other states, the Ohio ballot initiative included social equity provisions designed to address past harm of marijuana criminalization by investing in disproportionately impacted communities and encouraging participation of such groups in the new legal cannabis industry. The purpose of this report is to highlight the varying strategies other states¹ have deployed to fulfill social equity goals and to look at how Ohio’s new laws compare to others.

When policymakers and advocates discuss social equity in respect to marijuana legalization, they typically focus on three policy areas:² 1) criminal justice reforms encompassing record relief and resentencing, 2) efforts to facilitate participation of underrepresented groups in the marijuana industry by providing technical and financial

¹ In addition to state-level social equity efforts, many local jurisdictions have also implemented their own social equity programs following the legalization of cannabis. While these efforts are important, often reaching very large communities such as Los Angeles, this report is only focused on social equity programs at the state level.

² See, e.g., Shaleen Title, December 2021, “Fair and Square: How to Effectively Incorporate Social Equity Into Cannabis Laws and Regulations”, Drug Enforcement and Policy Center. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3978766

support or by setting aside a certain number or type of licenses, and 3) investment into disproportionately affected communities. As of 2023, an overwhelming majority of legalization states have enacted some social equity provisions alongside their adult-use marijuana programs. As shown in Table 1, 22 of the 24 legalization states have enacted criminal justice reforms, 20 states have created industry participation assistance programs, and 18 states have either adopted community reinvestment provisions or are in the process of considering them. Not all marijuana-related social equity provisions were enacted as part of initial marijuana legalization reforms, which was especially the case with states that were part of the early wave of legalization. As shown in Table 1 below, many of these early states adopted social equity provisions through subsequent enactments.

In the following sections, we look at each policy area in greater detail, starting with criminal justice reform, followed by community reinvestment and industry participation. In addition to the three policy areas, we also provide detailed information on the criteria selected states have used to determine individual and community eligibility for participating in their social equity programs. We conclude the report with recommendations for greater data collection and analyses concerning the impact of social equity efforts and a more robust assessment of best practices for social equity programs.

Table 1: Overview of all three social equity policy areas by state

| State | Criminal Justice Reform | Community Reinvestment | Industry Participation Assistance |
|-----------------------------------|--|-----------------------------------|-----------------------------------|
| Alaska (2014 by ballot) | No | No | No |
| Arizona (2020 by ballot) | Yes (Enacted During and Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| California (2016 by ballot) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) | Yes (Enacted Post-Legalization) |
| Colorado (2012 by ballot) | Yes (Enacted During Legalization) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) |
| Connecticut (2021 legislated) | Yes (Enacted Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Delaware (2023 legislated) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Illinois (2019 legislated) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Maine (2016 by ballot) | No | No | No |
| Maryland (2022 legislated) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Massachusetts (2016 by ballot) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) |
| Michigan (2018 by ballot) | Yes (Enacted Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Minnesota (2023 legislated) | Yes (Enacted Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Missouri (2022 legislated) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |

| State | Criminal Justice Reform | Community Reinvestment | Industry Participation Assistance |
|-----------------------------------|--|-----------------------------------|-----------------------------------|
| Montana (2020 by ballot) | Yes (Enacted During Legalization) | No | No |
| Nevada (2016 by ballot) | Yes (Enacted Post-Legalization) | No | Yes (Enacted Post-Legalization) |
| New Jersey (2020 by ballot) | Yes (Enacted Pre/Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| New Mexico (2021 legislated) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| New York (2021 legislated) | Yes (Enacted During and Post-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Ohio (2023 by ballot) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Oregon (2014 by ballot) | Yes (Enacted Post-Legalization) | No | No |
| Rhode Island (2022 legislated) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Vermont (2018 legislated) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) |
| Virginia (2021 legislated) | Yes (Enacted Pre-Legalization) | Yes (Enacted During Legalization) | Yes (Enacted During Legalization) |
| Washington (2012) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) | Yes (Enacted Post-Legalization) |

CRIMINAL JUSTICE PROVISIONS

Criminal justice reforms enacted by states in response to marijuana legalization can be broadly divided into two types – record relief provisions and resentencing provisions.

Record relief provisions nationwide

States use different terms to describe record relief provisions, with expungement and record sealing being used most frequently, in addition to labels such as "set aside," "vacate," or "erasure." As described in greater detail in a previous report,³ record relief encompasses a wide variety of provisions that can differ significantly in scope. Four elements help determine the breadth of available relief: the range of offenses eligible for relief, the extent to which records are removed from government databases, how long one must wait before being able to seal their record, and who has responsibility for initiating sealing or expungement. In respect to the range of offenses, some states, such as Michigan, limit available record relief only to minor offenses, usually classified as misdemeanors, while other states, such as Missouri, allow for the sealing of a broad range of crimes, including felonies as well as misdemeanors. Second, the degree to which records are destroyed after a sealing varies, with some states destroying any record of past marijuana convictions while others only remove records from public view but allow

³ Margaret Love, Jana Hrdinova and Dexter Ridgway, December 2022, "Marijuana legalization and record clearing in 2022", Drug Enforcement and Policy Center in Collaboration with the Collateral Consequences Resource Center. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4307003

the use for certain purposes, such as determining eligibility for employment in law enforcement or at sentencing for any future offense. Third, states differ in the immediacy with which record relief is available to people with marijuana criminal records, with some states offering immediate relief and others instituting various wait times or limiting relief only to convictions that took place within a specified timeframe. Lastly, the scope of relief is determined by whether the responsibility to initiate proceedings rests with the state, often called an automatic or government-initiated process, or whether it rests with the individual with the criminal record, generally called petition-based relief.⁴

As shown in Table 2, 22 of the 24 legalized states have taken steps to provide record relief for marijuana-related convictions or other low-level convictions that would cover marijuana criminal offenses. Alaska and Maine are the only two states without a record relief mechanism for past convictions. A total of 16 states have implemented some form of government-initiated record relief, whether through provisions within the adult-use program that are marijuana-specific, or via a “clean slate” type of legislation enacted separately from the adult-use program.

Resentencing provisions nationwide

The second category of criminal justice relief involves the authorization of resentencing for those still subject to punishment for marijuana-related offenses. As with record relief, resentencing provisions differ from state to state but generally allow individuals currently serving a marijuana-related sentence an opportunity to have this sentence amended or completely vacated. This type of relief is less common, with only eight states out of 24 adopting resentencing provisions for past marijuana offenses.

Record relief and resentencing in Ohio

The Ohio marijuana legalization initiative passed in November 2023 did not include any direct criminal justice reform provisions. However, it did earmark some marijuana tax revenue to “study and fund judicial and criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana” as part of the *Cannabis social equity and jobs program*.⁵ Notably, over the past 12 years the Ohio General Assembly has passed numerous record relief reforms that have significantly broadened the type of offenses eligible for sealing to include certain classes of felonies,⁶ and that allow for a near complete destruction of records of offenses eligible for sealing by making expungement broadly available with additional wait time.⁷ Consequently, the majority of marijuana offenses in Ohio are eligible for both record sealing and expungement.⁸ The process remains petition-based, which generally limits its effectiveness due to low utilization among eligible Ohioans, although recent legislation allows prosecutors to initiate record relief petitions on behalf of individuals convicted of minor substance offenses. However, an initial survey of prosecutorial offices across Ohio suggests that only a small number of offices plan to participate in the process to initiate record relief.⁹

At present, Ohio does not have any statutes allowing for resentencing of marijuana offenses.

⁴ For a detailed accounting of marijuana specific as well as other record relief provisions in all 50 states please visit the Restoration of Rights Project portion of the Collateral Consequences Resource Center website at <https://ccresourcecenter.org/restoration-2/>.

⁵ Ohio Revised Code. Section 3780.19 | Cannabis social equity and jobs program. <https://codes.ohio.gov/ohio-revised-code/section-3780.19>

⁶ For a general discussion of Ohio’s recent record relief history, see Jana Hrdinova, April 2023, “Is Expanding Eligibility Enough?: Improving Record Sealing Access and Transparency in Ohio Courts”. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4412551

⁷ SB 288 passed in December 2022, and went into effect in April 2023.

⁸ While broadly this statement is true, there are additional considerations that go into determining eligibility for sealing once an offense is classified as a felony in the third degree. Felony offenses in first and second degree are not eligible for record relief through the traditional record sealing process, although they are eligible for record relief through an executive pardon.

⁹ Jana Hrdinova, Dexter Ridgway, Douglas A. Berman and Peter Leasure. “Prosecutor-Initiated Record Relief in Ohio: A Survey of Prosecutorial Plans to Seal and Expunge Low-Level Controlled Substance Offenses”. August 2023. Drug Enforcement and Policy Center. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4542994

Table 2: Summary descriptions of record relief and resentencing provisions by state

| State Program | Record Relief Description | Resentencing Provisions |
|-----------------------------|--|-------------------------|
| Alaska | None | None |
| Arizona ¹⁰ | Arizona's Proposition 207 allows for expungement of records for possession up to 2.5 ounces and cultivation of up to six plants, upon petition. | Yes |
| California ¹¹ | California's Proposition 64 allows petitions for marijuana offense expungements, with AB 1793 automating this process. AB 1706 further directs courts for record reduction, redesignation and expungement. | Yes |
| Colorado ¹² | Colorado's 2017 law allows petition-based expungement for misdemeanor marijuana convictions, with automatic sealing for first-time minor offenses. The 2022 Clean Slate bill extends automatic expungement to all eligible marijuana felonies and misdemeanors starting July 2024. | None |
| Connecticut ¹³ | Connecticut's 2021 legalization bill includes petition-based and automatic expungement for marijuana possession of up to four ounces from specific periods, with automatic sealing effective from 2023 and mandatory record destruction for decriminalized charges. | None |
| Delaware ¹⁴ | House Bill 2 in Delaware mandates expungement for nonviolent marijuana possession or paraphernalia offenses, with technology development for civil rights restoration and criminal record expungement. | None |
| Illinois ¹⁵ | Illinois authorizes automatic expungement for minor cannabis offenses involving up to 30 grams and, via petition, for larger amounts of up to 500 grams. | None |
| Maine | None | None |
| Maryland ¹⁶ | Maryland allows expungement petitions for cannabis possession, automatic expungement for certain cases, and resentencing for incarcerated individuals. It also seals records for specified cannabis offenses, treating public smoking as a civil offense. | Yes |
| Massachusetts ¹⁷ | Massachusetts' 2018 law allows discretionary expungement for low-level marijuana convictions, expanded in 2022 to include cultivation and intent to distribute offenses, with a mandatory 30-day expungement upon petition. | None |
| Michigan ¹⁸ | Michigan's Clean Slate legislation, following 2018's legalization, streamlines marijuana misdemeanor expungement and includes automatic expungement for simple misdemeanors and non-assaultive felonies after seven years, along with traffic offense expungement and reduced waiting periods. | None |

¹⁰ Arizona Revised Statutes Title 36. Public Health and Safety. (2020, November 30). 36-2862 - Expungement; petition; appeal; dismissal of complaints; rules. <https://azleg.gov/ars/36/02862.htm>

¹¹ California Code, Health and Safety Code. (n.d.). § 11361.5, § 11361.8, and § 11361.9. <https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-11361-5/>

¹² Colorado Revised Statutes, Title 24. Government--State. (n.d.). § 24-72-706. Sealing of criminal conviction and criminal justice records--processing fee. https://colorado.public.law/statutes/crs_24-72-706

¹³ Connecticut General Statutes, Title 54 Criminal Procedure. (n.d.). Chapter 961a - Criminal Records § 54-142. https://www.cga.ct.gov/current/pub/chap_961a.htm

¹⁴ Delaware Code, Title 11. Crimes and Criminal Procedure. (n.d.). *Subchapter VII. Expungement of Criminal Records § 4371 - § 4378.* Delaware Code Online. <https://delcode.delaware.gov/title11/c043/sc07/>

¹⁵ Illinois Compile Statutes, Chapter 20. Executive Branch. (n.d.). 2630/5.2. Expungement, sealing, and immediate sealing. <https://www.ilga.gov/legislation/ilcs/documents/002026300K5.2.htm>

¹⁶ Maryland Code, Title 10. Criminal Records. (n.d.). § 10-110 and § 10-112. Maryland General Assembly. <https://mgaleg.maryland.gov/mgawebsite/laws/statutes>

¹⁷ Massachusetts General Laws, Title II. Proceedings in Criminal Cases. (n.d.). § 100K and § 100K ¼. <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter276>

¹⁸ Michigan Compiled Laws, Chapter 780. Criminal Procedure. (n.d.). 780.621. *Eligibility to have conviction set aside; definitions.* Michigan Legislature. [https://www.legislature.mi.gov/\(S\(vppu5b2wnqgsm5iwqqjf2rcl\)\)/mileg.aspx?page=getobject&objectname=mcl-780-621](https://www.legislature.mi.gov/(S(vppu5b2wnqgsm5iwqqjf2rcl))/mileg.aspx?page=getobject&objectname=mcl-780-621)

| State Program | Record Relief Description | Resentencing Provisions |
|--------------------------|---|-------------------------|
| Minnesota ¹⁹ | Minnesota's legislation includes automatic expungement for certain cannabis offenses, a Cannabis Expungement Board for reviewing and determining expungement or resentencing eligibility, and court-issued expungement orders with detailed procedures for record sealing and notification requirements. | Yes |
| Missouri ²⁰ | Missouri mandates expungement of certain felony marijuana offenses within 12 months, allows petitions for resentencing and release, and requires record sealing, restoring individuals to prearrest status. | Yes |
| Montana ²¹ | Montana's 2020 initiatives (CI-118, I-190) allow individuals to petition for expungement, resentencing or redesignation for offenses involving no more than one ounce, with presumed eligibility for relief. | Yes |
| Nevada ²² | Nevada's 2019 bill allows sealing of records for offenses like marijuana possession if decriminalized. AB 158 seals records for those under 21 for minor offenses, and a 2020 resolution pardons possession convictions from 1986-2017. | None |
| New Jersey ²³ | New Jersey's 2021 law expands expungement to various marijuana offenses, directing an automatic record sealing system. It includes provisions for vacating convictions, assessing rehabilitation in background checks, and expunging cannabis-related offenses. | None |
| New Mexico ²⁴ | New Mexico's legislation with marijuana legalization automatically expunges public records of cannabis offenses (two ounces or less) no longer criminal or reduced in severity, two years after conviction or arrest. | None |
| New York ²⁵ | New York's SB 6579 and 2021 legalization bill provide automatic vacatur and expungement for possession of two ounces or less of marijuana, including misdemeanor and felony possession and misdemeanor sale offenses. | Yes |
| Ohio ²⁶ | Ohio's Cannabis Social Equity and Jobs Program authorizes a fund to study reforms including expungement. Ohio allows for the sealing and expungement of wide classes of misdemeanors and felonies, with various waiting periods in place depending on the type of offense. Record relief is petition-based. | None |
| Oregon ²⁷ | Oregon has streamlined the process for setting aside and reducing marijuana convictions, with eligibility for those under 21 at conviction time, fee waivers for small possession cases, and online filing for set-asides and reductions. | Yes |

¹⁹ Minnesota Statutes, CRIMES; EXPUNGEMENT; VICTIMS. (n.d.). CHAPTER 609A EXPUNGEMENT. Minnesota Legislature Office of the Revisor of Statutes. <https://www.revisor.mn.gov/statutes/cite/609a>

²⁰ Missouri State Constitution. (n.d.). XIV Section 2 Missouri Constitution. <https://revisor.mo.gov/main/OneSection.aspx?section=XIV%20%20%202&constit=y>

²¹ Montana Code Annotated, Title 16. Alcohol, Tobacco, and Marijuana. (n.d.). 16-12-113. Decriminalized acts -- petition for expungement or resentencing -- retroactive application. https://leg.mt.gov/bills/MCA/title_0160/chapter_0120/part_0010/section_0130/0160-0120-0010-0130.html

²² Nevada Revised Statutes, Title 14. Procedure in Criminal Cases. (n.d.). NRS 179.271 – Sealing of records after decriminalization of offense: Written request. https://nevada.public.law/statutes/nrs_179.271

²³ New Jersey Statutes, Title 2c. The New Jersey Code of Criminal Justice. (n.d.). Chapter 52. Expungement of Records. <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>

²⁴ New Mexico Statutes, Chapter 29 - Law Enforcement. (n.d.). § 29-3A-8. Expungement of arrest and conviction records; procedure. New Mexico Compilation Commission. https://nmonesource.com/nmos/nmsa/en/item/4367/index.do#!fragment/zoupio-_Toc148609612/BQCwhgziBcwMYgk4DsDWszlQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAWADgDYADAE4+HAEwBKADTJspQhACKiQrgCe0AOSapEQmFwJlqjdt37DIAMp5SAIQ0AIKIAZZwDUAggDkAws5SpGAARtCk7BISQA

²⁵ New York State Assembly. (2021, March 31). Marijuana Regulation and Taxation Act (S854A). Office of Cannabis Management. <https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta>

²⁶ Ohio Revised Code, Title 37 Health-Safety-Morals. (n.d.-b). Section 3780.18 | Purpose of cannabis social equity and jobs program. Ohio Laws & Administrative Rules - Legislative Service Commission. <https://codes.ohio.gov/ohio-revised-code/section-3780.18>

²⁷ Oregon Revised Statutes, Title 14. Procedure in Criminal Matters Generally. (n.d.). 137.226. Eligibility for order setting aside conviction; offenses in which possession, delivery or manufacture of marijuana or marijuana item is an element. Oregon Laws. https://oregon.public.law/statutes/ors_137.226

| State Program | Record Relief Description | Resentencing Provisions |
|----------------------------|---|-------------------------|
| Rhode Island ²⁸ | The Act includes expungement of certain cannabis-related convictions, guidelines for record sealing in employment, resentencing provisions, protections for individuals with expunged records, and considerations of rehabilitation and fitness for occupational licensing. | None |
| Vermont ²⁹ | Vermont's S.234 authorizes automatic expungement for possession of up to two ounces of cannabis or cultivation of four mature plants, with petition-based expungement available for conduct no longer criminalized. | None |
| Virginia ³⁰ | Virginia's SB 1406 allows automatic expungement of misdemeanor marijuana possession and petition-based expungement for paraphernalia sale, with limited public record access from July 2021. | None |
| Washington ³¹ | Washington allows individuals 21 or older at the time of a misdemeanor marijuana offense to apply for immediate conviction vacation, mandated by the court if eligible. | None |

Table 3. Government-initiated or petition-based record relief

| Petition-based expungement record relief | Government-initiated record relief | Mixed relief |
|--|------------------------------------|--------------|
| 6 states | 10 states | 6 states |

INDUSTRY PARTICIPATION SUPPORT

The second policy area of marijuana social equity is industry participation support aimed at individuals and communities that have been disproportionately affected by marijuana criminalization or other distinct groups such as veterans. With much of the marijuana industry structured around state licensing requirements, states have typically adopted two approaches to industry participation support: 1) a license assistance program, which can include financial and/or technical assistance provided to applicants that meet requirements for participation, and 2) equity license allocations or preferences.

As shown in Table 4 below, 12 states have enacted statutes requiring a certain number or certain percentage of licenses to be allocated for individuals who are part of a disproportionately affected community or who have met other criteria set by the state regulators. Additionally, 20 states have established programs to provide license assistance, whether through application fee waivers or reductions, programs that provide loans to applicants, or by offering technical assistance. Nineteen states have also enacted language that sets aside funds for providing some form of business education training for equity applicants and their workforce. These programs can come in the form of job training, business marketing, literacy and tutoring programs, apprenticeships, mentoring services, and other programs meant to foster economic growth for equity applicants and the communities impacted by enforcement.

Only four states do not provide any form of industry participation support: Alaska, Maine, Montana and Oregon.

²⁸ Rhode Island General Laws, Title 12. Criminal Procedure. (n.d.). *Chapter 1.3 Expungement of Criminal Records § 12-1.3-1 to § 12-1.3-5.* Chapter 1.3 Expungement of Criminal Records. <http://webserver.rilin.state.ri.us/Statutes/TITLE12/12-1.3/INDEX.HTM>

²⁹ Vermont Statutes, Title Thirteen. Crimes and Criminal Procedure. (n.d.). *Chapter 230. Expungement and Sealing of Criminal History Records (§ 7601 to § 7611).* Vermont General Assembly. <https://legislature.vermont.gov/statutes/chapter/13/230>

³⁰ Virginia General Assembly. (2021, April 7). *SB 1406 Marijuana; legalization of simple possession, etc.* Virginia's Legislative Information System. <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1406>

³¹ Revised Code of Washington, Title 9. Crimes and Punishments. (n.d.). 9.96.060. *Vacating records of conviction for misdemeanor and gross misdemeanor offenses.* Washington State Legislature. [https://app.leg.wa.gov/rcw/default.aspx?cite=9.96.060#:~:text=\(1\)%20When%20vacating%20a%20conviction,aside%20the%20verdict%20of%20guilty%3B](https://app.leg.wa.gov/rcw/default.aspx?cite=9.96.060#:~:text=(1)%20When%20vacating%20a%20conviction,aside%20the%20verdict%20of%20guilty%3B)

Ohio industry participation support

The newly passed initiative in Ohio calls for the “*department of development to establish a business assistance program funded by the cannabis social equity and jobs fund, and to adopt rules ... to administer the program including the following:*”³² ...

“(8) Provide financial assistance, loans, grants, and technical assistance to persons certified by the department under the cannabis social equity and jobs program pursuant to rules adopted under this section;”

“(9) Encourage employment practices, in which an adult-use cannabis operator can demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;”

“(C) For certified cannabis social equity and job program participants, the division of cannabis control shall waive at least fifty percent of any license or application fees associated with a license holder’s application or license.”³³

Additionally, the initiative also established a “preferred status” for applicants certified as cannabis social equity and jobs program participants for 40 Level III adult-use cultivator licenses (up to 5,000 sqf) and up to 50 adult-use dispensary licenses:

“(C) The division of cannabis control shall issue up to forty level III adult-use cultivator licenses consistent with this chapter with preference provided to applicants who have been certified as cannabis social equity and jobs program participants under the cannabis social equity and jobs program pursuant to 3780.19 of this chapter. No person may have any ownership or control in more than one level III adult-use cultivator license under this chapter. No adult-use cultivator or adult-use processor may have any ownership or control in a level III adult-use cultivator license.

“(D) The division of cannabis control shall issue up to fifty additional adult-use dispensary licenses in conformity with this chapter with preference provided to applicants who have been certified as cannabis social equity and jobs program participants under the cannabis social equity and jobs program.”³⁴

It remains to be seen how, and if, an industry participation support program will be established in the state of Ohio, as revisions have already been proposed in the Ohio General Assembly that would eliminate all industry participation support provisions by rerouting marijuana tax revenue to mostly law enforcement priorities.³⁵

Table 4: Industry participation support provisions by state

| State | License assistance program | Equity license allocation |
|-----------------------|--|---|
| Alaska | None | None |
| Arizona ³⁶ | Offers fee waivers for eligible first-time applicants based on income and military/veteran status. | 26 adult-use marijuana establishment licenses for social equity applicants. |

³² Ohio Revised Code. Section 3780.19 | Cannabis social equity and jobs program. <https://codes.ohio.gov/ohio-revised-code/section-3780.19>

³³ Ibid.

³⁴ Ohio Revised Code. Section 3780.10| Adult use cannabis operator and adult use testing laboratory licenses.

<https://codes.ohio.gov/ohio-revised-code/section-3780.10>

³⁵ House Bill 86 in 135th General Assembly Regular Session 2023-2024, Sec. 5739.271. https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_135/bills/hb86/PS/05/hb86_05_PS?format=pdf The bill did set aside 15% of all adult use licenses to minority business owners, however, this provision was already struck down by the Ohio courts as unconstitutional when the state tried to implement the same provision under its medical marijuana control program (Sec. 3796.09.)

³⁶ Arizona Revised Statutes, Title 41. State Government. (n.d.-a). 41-1080.01. *Licensing fees; waiver; annual report; definitions.* Arizona Legislature. <https://www.azleg.gov/ars/41/01080-01.htm>

| State | License assistance program | Equity license allocation |
|-----------------------------|--|--|
| California ³⁷ | Offers fee waivers/tiered fees and technical/financial assistance for equity licenses. | None |
| Colorado ³⁸ | HB 20-1424 offers financial/technical support and various Accelerator Licenses (Cultivator, Manufacturer, Retailer) for equity licensees with operational flexibility and partnership agreements. | None |
| Connecticut ³⁹ | Connecticut offers loans for SEC-approved Social Equity Applicants owning 50%+ of Equity Joint Ventures or own 65% or more of a 149 cultivators/businesses. Covers specific business expenses, excludes taxes/licensing fees. Loans up to \$500,000 with 6-9% interest rate, discounts for program completion, and personal guarantees required. | 50% of licenses are reserved for social equity applicants. |
| Delaware ⁴⁰ | Offers technical support and a Social Equity Fund providing low-interest loans and grants. Microbusiness licenses for small-scale operations with discounted fees and biennial renewals. | Cultivation Licenses - 30 licenses Product Manufacturing Facility Licenses - 10 licenses Retail store licenses - 15 licenses Testing facility licenses - two licenses |
| Illinois ⁴¹ | Provides application advantages, 50% fee waivers, financial/technical support, and an incubation program. | Dispensing Organizations - 55 licenses Cultivation Centers - 20 licenses |
| Maine | None | None |
| Maryland ⁴² | Establishes a Partnership Grant Program to support licensee collaborations. | First round of applicant submissions for all license types are reserved for social equity applicants. |
| Massachusetts ⁴³ | Offers fee reductions, grant/loan funds, and prioritizes these applicants in licensing. | None |
| Michigan ⁴⁴ | Offers fee waivers/reductions and financial/technical assistance to social equity applicants. | None |
| Minnesota ⁴⁵ | Provides grants, loans to cannabis microbusinesses, and technical assistance in affected communities. | None |

³⁷ California Code of Regulations, Title 4. Business Regulations. (n.d.-b). § 15014.1. *Equity Fee Relief*. Westlaw California Code of Regulations. [https://govt.westlaw.com/calregs/Document/I739DCD7081C711ED9DCDC96565D7339A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I739DCD7081C711ED9DCDC96565D7339A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

³⁸ Colorado General Assembly. (n.d.). HOUSE BILL 20-1424 Social Equity Licensees In Regulated Marijuana. <https://leg.colorado.gov/bills/hb20-1424>

³⁹ Connecticut General Assembly. (n.d.-b). Public Act No. 21-1 AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT-USE CANNABIS. <https://www.cga.ct.gov/2022/ACT/PA/PDF/2022PA-00103-R00HB-05329-PA.PDF>

⁴⁰ Delaware General Assembly. (n.d.). House Bill No. 150 Delaware Marijuana Control Act. <https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48480&legislationTypeId=1&docTypeId=2&legislationName=HB150>

⁴¹ Illinois General Assembly. (2019, June 25). (410 ILCS 705/) Cannabis Regulation and Tax Act. <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=3992&ChapterID=35>

⁴² Maryland General Assembly. (2023, May 3). Senate Bill 516 & House Bill 556 - Adult-use Legalization Bills. <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0556?ys=2023RS#:~:text=Renaming%20the%20Alcohol%20and%20Tobacco,on%20the%20sale%20of%20cannabis>

⁴³ Massachusetts Legislature. (2022, August 11). Bill S.3096 An Act relative to equity in the cannabis industry. <https://malegislature.gov/Bills/192/S3096/Cosponsor>

⁴⁴ Michigan Administrative Code. (n.d.). R 420.19 *Communities disproportionately impacted by marijuana prohibition*. Cannabis Regulatory Agency. <https://www.michigan.gov/cra/-/media/Project/Websites/cra/Laws-Rules-Other-Resources/Marihuana-Rules---R-4201-to-R-420104.pdf?rev=77ce1510042a4df6b14e2137e83bae7c&hash=71AB917A0C36FA6772ACBBDEA6F474DA>

⁴⁵ Minnesota Legislature. (2023, May 30). HF 100 *Minnesota Adult-use Legalization Legislation*. Office of the Revisor of Statutes. <https://www.revisor.mn.gov/bills/bill.php?b=house&f=hf100&ssn=0&y=2023>

| State | License assistance program | Equity license allocation |
|----------------------------|---|---|
| Missouri ⁴⁶ | Requires comprehensive license applicants to promote participation from disproportionately impacted communities. Appoints chief equity officer for public education and assistance. | Microbusiness license category established for equity applicants. |
| Montana | None | None |
| Nevada ⁴⁷ | Offers a 75% reduction in administrative fees. | Independent Cannabis Consumption Lounge - 10 licenses |
| New Jersey ⁴⁸ | New Jersey established the Cannabis Joint Equity Grant Program. Program offers \$20 million pilot for New Jersey license holders, and up-to \$250,000 in grants for startup/operational costs. | 25% of licenses will be given to applicants from impact zones. |
| New Mexico ⁴⁹ | Offers microbusiness licenses with discounted rates based on plant count and business functions for smaller-scale entrepreneurs. | None |
| New York ⁵⁰ | Equity program offers fee waivers/reductions, prioritizes these applicants, and includes an incubator program for additional support. | 50% of licenses will be awarded to social equity applicants. |
| Ohio ⁵¹ | The passed initiative provides for the establishment of the cannabis social equity and jobs program to provide financial assistance and license application support to individuals most directly and adversely impacted by the enforcement of marijuana-related laws who are interested in starting or working in cannabis business entities. | Up to 40 Level III adult-use cultivator licenses (5,000 sqf) and up to 50 adult-use dispensary licenses with preference provided to applicants who have been certified as cannabis social equity and jobs program participants. |
| Oregon | None | None |
| Rhode Island ⁵² | Establishes a fund for financial/technical assistance and allows license transfers only among qualified social equity applicants. | Six retail licenses will be awarded to social equity applicants. |
| Vermont ⁵³ | Prioritizes social equity and economic empowerment applicants, with a five-year fee reduction schedule for social equity applicants: full waiver in year one, incrementally increasing to full fee in year five. | None |
| Virginia ⁵⁴ | Grants early preference to social equity applicants until January 1, 2024, with partial fee waivers. Virginia's Equity Business Loan Fund offers low/zero-interest loans to qualified licensees. | None |

⁴⁶ Missouri State Constitution. (n.d.). XIV Section 2 Missouri Constitution. <https://revisor.mo.gov/main/OneSection.aspx?section=XIV%20%20%202&constit=y>

⁴⁷ Nevada Legislature. (2021, June 4). AB341. <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7877/Overview>

⁴⁸ New Jersey State Legislature. (2021, February 22). *New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (A21)*. Cannabis Regulatory Commission. https://pub.njleg.gov/bills/2020/PL21/16_PDF

⁴⁹ New Mexico Legislature. (2021, April 12). *ARTICLE 2C Cannabis Regulation Act*. New Mexico Regulation and Licensing Department. <https://www.rld.nm.gov/wp-content/uploads/2023/08/ARTICLE-2C-Cannabis-Regulation--Chapter-26-Drugs-and-Cosmetics.pdf>

⁵⁰ New York State Assembly. (2021, March 31). *Marihuana Regulation and Taxation Act (S854A)*. Office of Cannabis Management. <https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta>

⁵¹ Coalition to Regulate Marijuana Like Alcohol. (2023, November 7). Issue 2. <https://justlikealcohol.com/wp-content/uploads/2023/08/Full-Text-of-the-Law.pdf>

⁵² Rhode Island General Assembly. (2022, May 25). THE RHODE ISLAND CANNABIS ACT S2430. <http://webservice.rilin.state.ri.us/PublicLaws/law22/law22032.htm>

⁵³ Vermont General Assembly. (2021a, June 7). S.25 (Act 62) An act relating to miscellaneous cannabis regulation procedures. <https://legislature.vermont.gov/bill/status/2022/S.25>

⁵⁴ Virginia General Assembly. (2021, April 7). *SB 1406 Marijuana; legalization of simple possession, etc.* Virginia's Legislative Information System. <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1406>

| State | License assistance program | Equity license allocation |
|--------------------------|---|---|
| Washington ⁵⁵ | WSLCB to issue new/revoked licenses (34 current, up to 52 additional from 2024) exclusively to social equity applicants. Annual fees waived through July 1, 2032. | 52 retail licenses will be administered to social equity applicants. Any new or revoked license will be given to a social equity applicant. |

COMMUNITY REINVESTMENT

Among the 24 adult-use marijuana states, 15 states have created community reinvestment programs designed to invest some portion of the marijuana tax revenue into needy communities. The programs encompass efforts aimed at investment in job training and economic development opportunities, jail diversion and violence prevention, or providing funds for reducing unemployment and homelessness among other objectives. Some states direct community reinvestment funds specifically to communities deemed “disproportionately affected” by over-policing during prohibition, while others invest resources more generally into economically depressed areas. In addition to the 15 states with functioning traditional community reinvestment programs, the state of Michigan has established a social equity grant program that is opened to the social equity cannabis licensees, who can then engage in various community reinvestment activities in the jurisdiction where they are located. Two other states, Vermont and New Mexico, have community reinvestment programs in the planning stage, although they have yet to be implemented.

Ohio community reinvestment

As mentioned in the previous section on Ohio industry participation assistance, the recently passed initiative included a provision establishing the cannabis social equity and jobs program. Concerning community reinvestment, the initiative proposed to “(12) *Fund direct investment in disproportionately impacted communities to enhance education, entrepreneurship, legal aid, youth development, violence prevention, and the arts related to the program.*”⁵⁶ Additional tax revenue is allocated for substance use treatment and prevention, which can be seen as a form of community reinvestment if it is invested in communities disproportionately affected by past enforcement. Furthermore, the initiative also designated a portion of the tax revenue to be invested back into communities that have licensees within their jurisdictions.⁵⁷

Similar to proposed reforms to Ohio’s industry participation assistance provisions, revisions have already been proposed in the Ohio General Assembly that would eliminate funding for community reinvestment by rerouting marijuana tax revenue to mostly law enforcement priorities except for substance use treatment and prevention, which continues to be funded under HB 86, albeit at a lower level.

Table 5: Summaries of community reinvestment programs by state

| State program | Community reinvestment |
|-----------------------|---|
| Alaska | None |
| Arizona ⁵⁸ | 10% funds the Justice Investment Fund, managed by the state treasurer for public health and justice reinvestment programs, with annual grantee reports. |

⁵⁵ Revised Code of Washington. (n.d.). RCW 69.50.335 Cannabis retailer, processor, producer licenses—Issue, reissue of licenses—Social equity applicants—Rules—Definitions. Washington State Legislature. <https://app.leg.wa.gov/rcw/default.aspx?cite=69.50.335>

⁵⁶ Ohio Revised Code. Section 3780.19 | Cannabis social equity and jobs program. <https://codes.ohio.gov/ohio-revised-code/section-3780.19>

⁵⁷ Ohio Revised Code. Section 3780.23 | Funds created. <https://codes.ohio.gov/ohio-revised-code/section-3780.23>

⁵⁸ Arizona Revised Statutes, Title 36. Public Health and Safety. (n.d.-c). 36-2863. *Justice reinvestment fund; exemption; distribution; definition.* Arizona Legislature. <https://www.azleg.gov/ars/36/02863.htm>

| State program | Community reinvestment |
|-----------------------------|---|
| California ⁵⁹ | State allocated \$30 million from 2020 cannabis taxes to local equity programs, with 50% for nonprofits. Program will increase to \$50 million by FY 2022-2023. |
| Colorado ⁶⁰ | Social equity efforts prioritize licenses for impacted individuals, provide financial aid and community reinvestment, facilitate criminal record expungement, offer local employment and training, encourage community regulatory input, and protect small businesses. |
| Connecticut ⁶¹ | From July 2023 to June 2026, 60% of excise tax is allocated to the Social Equity and Innovation Fund, increasing to 65% in 2026 and 75% in 2028. The Social Equity and Innovation Fund has a variety of purposes but specifically requires funds to be distributed for “community investments.” |
| Delaware ⁶² | Justice Reinvestment Fund managed by state treasurer finances administrative costs, restorative justice initiatives, workforce development, and technology for civil rights restoration without year-end fund reversion. |
| Illinois ⁶³ | The R3 Program allocates 25% of cannabis tax revenue to grants for violence prevention, reentry support, youth development, economic development, and civil legal aid in areas with high violence, poverty, unemployment and incarceration rates. |
| Maine | None |
| Maryland ⁶⁴ | Legalization established the Community Reinvestment and Repair Fund. Fund shall be used for community-based initiatives intended to serve low-income, and/or, areas identified as disproportionately impacted by marijuana enforcement. |
| Massachusetts ⁶⁵ | Equity plans for impacted communities, Cannabis Social Equity Trust Fund for grants and loans, 3% sales cap on community impact fees, 15% of Regulation Fund for equity and health programs, fines for noncompliance. |
| Michigan | The state of Michigan established a Social Equity Grant Program for certified participants in the Social Equity All-Star program which is limited to cannabis licensees. These grants can be used on things such as employee education or business needs, as well as: “Funds spent on community investment may be used on or donated to organizations, nonprofits, and/or charities that positively impact the community in which the entity is located.” ⁶⁶ |
| Minnesota ⁶⁷ | CanRenew grants support community investments and job creation in social equity areas, with additional programs for loan financing, substance treatment, and industry training. |
| Missouri ⁶⁸ | The Veterans, Health, and Community Reinvestment Fund, fueled by taxes and fees, offers grants for addiction treatment, overdose education, and support services, prioritizing high overdose rate populations. One-third of the fund is allocated to agencies and not-for-profit organizations with an emphasis on reintegrating recipients into their local communities, while also providing for job placement, housing, and counseling for individuals with substance use disorders. |
| Montana | None |
| Nevada | None |

⁵⁹ Governor’s Office of Business and Economic Development. (n.d.). California Community Reinvestment Grants Program.

<https://business.ca.gov/california-community-reinvestment-grants-program/>

⁶⁰ Colorado General Assembly. (n.d.). HOUSE BILL 20-1424 Social Equity Licensees In Regulated Marijuana. <https://leg.colorado.gov/bills/hb20-1424>

⁶¹ Connecticut General Assembly. (n.d.-b). Public Act No. 21-1 AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT-USE CANNABIS. <https://www.cga.ct.gov/2022/ACT/PA/PDF/2022PA-00103-R00HB-05329-PA.PDF>

⁶² Delaware General Assembly. (n.d.). House Bill No. 150 Delaware Marijuana Control Act. <https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48480&legislationTypeId=1&docTypeId=2&legislationName=HB150>

⁶³ Illinois General Assembly. (2019, June 25). (410 ILCS 705/) Cannabis Regulation and Tax Act. <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=3992&ChapterID=35>

⁶⁴ Maryland General Assembly. (2023, May 3). Senate Bill 516 & House Bill 556 - Adult-use Legalization Bills. <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0556?ys=2023RS#:~:text=Renaming%20the%20Alcohol%20and%20Tobacco,on%20the%20sale%20of%20cannabis>

⁶⁵ Massachusetts Legislature. (2022, August 11). Bill S.3096 An Act relative to equity in the cannabis industry. <https://malegislature.gov/Bills/192/S3096/Cosponsor>

⁶⁶ Michigan Social Equity Grant Program, visited on January 18, 2024, <https://www.michigan.gov/cra/grants/social-equity-grant-program>

⁶⁷ Minnesota Legislature. (2023, May 30). *HF 100 Minnesota Adult-use Legalization Legislation*. Office of the Revisor of Statutes. <https://www.revisor.mn.gov/bills/bill.php?b=house&f=hf100&ssn=0&y=2023>

⁶⁸ Missouri State Constitution. (n.d.). XIV Section 2 Missouri Constitution. <https://revisor.mo.gov/main/OneSection.aspx?section=XIV%20%20%202&constit=y>

| State program | Community reinvestment |
|----------------------------|--|
| New Jersey ⁶⁹ | Seventy percent of cannabis revenue supports “impact zones” with grants, loans, and assistance, focusing on disadvantaged communities, training programs, and economic development. |
| New Mexico ⁷⁰ | Division adopts policies to ensure full cannabis industry participation from communities harmed by enforcement, focusing on diversity, New Mexico residency, and support for rural, economically disadvantaged areas. In 2021 Cannabis Regulatory Advisory Committee created the following recommendation for the Cannabis Control Division: Create a community reinvestment fund – reinvesting 40% of state cannabis excise tax revenue in communities disproportionately affected by past federal and state drug policies by supporting housing, job placement, mental health treatment, substance use disorder treatment and legal services to address barriers faced by formally incarcerated persons. Based on available information, this recommendation has not yet been adopted. |
| New York ⁷¹ | New York State allocates 40% of adult-use cannabis tax revenue to the Community Reinvestment Grant Fund for various community revitalization efforts, including job skills, education, health and legal services. |
| Ohio ⁷² | Fund direct investment in disproportionately impacted communities to enhance education, entrepreneurship, legal aid, youth development, violence prevention, and the arts related to the program. Additional resources are set aside for substance use treatment and prevention. |
| Oregon | None |
| Rhode Island ⁷³ | Social Equity Assistance Fund supports approved applicants with grants, community development goals like job training, restorative justice programs, fee waivers for industry entry, and mandates annual community impact reports. |
| Vermont ⁷⁴ | Vermont has taken steps to enact community investment through funds meant for social equity however, the program is in its early phases and has not yet been activated. |
| Virginia ⁷⁵ | Thirty percent of funds to the Cannabis Equity Reinvestment Fund for supporting impacted communities, educational resources, workforce development, and the Virginia Cannabis Equity Business Loan Fund for low-interest loans to social equity licensees. |
| Washington | None |

DEFINING SOCIAL EQUITY APPLICANTS AND DISPROPORTIONATELY IMPACTED COMMUNITIES

An important aspect of social equity programs, especially concerning community reinvestment and industry participation support, is the criteria states use to determine who is and who is not eligible for participation. The criteria used to determine eligibility for a social equity program usually include a combination of two elements: 1) personal circumstances and 2) a broader conceptualization of a disproportionately affected or deserving community.⁷⁶

⁶⁹ New Jersey State Legislature. (2021, February 22). *New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (A21)*. Cannabis Regulatory Commission. https://pub.njleg.gov/bills/2020/PL21/16_PDF

⁷⁰ New Mexico Legislature. (2021, April 12). *ARTICLE 2C Cannabis Regulation Act*. New Mexico Regulation and Licensing Department. <https://www.rld.nm.gov/wp-content/uploads/2023/08/ARTICLE-2C-Cannabis-Regulation--Chapter-26-Drugs-and-Cosmetics.pdf>

⁷¹ New York State Assembly. (2021, March 31). *Marihuana Regulation and Taxation Act (S854A)*. Office of Cannabis Management. <https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta>

⁷² Coalition to Regulate Marijuana Like Alcohol. (2023, November 7). Issue 2. <https://justlikealcohol.com/wp-content/uploads/2023/08/Full-Text-of-the-Law.pdf>

⁷³ Rhode Island General Assembly. (2022, May 25). *THE RHODE ISLAND CANNABIS ACT S2430*. <http://webserver.rilin.state.ri.us/PublicLaws/law22/law22032.htm>

⁷⁴ Vermont General Assembly. (2021a, June 7). S.25 (Act 62) An act relating to miscellaneous cannabis regulation procedures. <https://legislature.vermont.gov/bill/status/2022/S.25>

⁷⁵ Virginia General Assembly. (2021, April 7). *SB 1406 Marijuana; legalization of simple possession, etc.* Virginia’s Legislative Information System. <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1406>

⁷⁶ The terms “disproportionately impacted” and “disproportionately affected” are used interchangeably throughout this report.

Personal circumstances

Personal characteristics or circumstances used by states to identify individuals to participate in the social equity program can be roughly divided into four categories: 1) criminal justice involvement, 2) economic status, 3) residence in a certain geographical area identified by the state, and 4) a broad category of “other.” Criminal justice involvement usually refers to the individual’s personal experience with a marijuana arrest or conviction, or such direct experience by immediate family members. Economic status refers to certain income requirements for the individual or family. In addition, states often recognize current or past residence in a certain geographical area as an additional qualification criterion. Lastly, states sometimes recognize other characteristics as eligibility criteria, such as a veteran status or being a farmer from a rural economically depressed area. As shown in Table 6, states may use a single or a combination of the four factors to identify eligible social equity applicants.

Table 6: Personal characteristics for qualification as a social equity participant in selected states

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|---|---|--|---|--|
| Alaska | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Arizona ⁷⁷ (applicant must meet three out of four criteria) | <p>One or more principal officers or board members representing an applying entity holding an aggregate of at least 51% ownership in the entity must meet 3/4 of the following:</p> <ul style="list-style-type: none"> • Has been adversely affected by enforcement of previous marijuana laws through conviction or expungement of cannabis-related violation. • Individual has a relative that has been adversely affected by enforcement of previous marijuana laws through conviction or expungement of cannabis-related violation. | Had an annual household income in at least three of the years 2016 through 2020 [less] than 400% of the poverty level. | Has lived for at least three of the years from 2016 through 2020 at a physical address that has been identified by the department as a disproportionately affected area by enforcement of previous marijuana laws | <i>None found</i> |
| California | <i>None on state level – individual jurisdictions can determine their own criteria</i> | <i>None on state level – individual jurisdictions can determine their own criteria</i> | <i>None on state level – individual jurisdictions can determine their own criteria</i> | <i>None on state level – individual jurisdictions can determine their own criteria</i> |

⁷⁷ ARIZONA DEPARTMENT OF HEALTH SERVICES, “Social Equity Ownership - How to Qualify,” n.d., <https://azdhs.gov/licensing/marijuana/social-equity/index.php#qualification>.

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|--|---|--|---|-------------------|
| Colorado ⁷⁸ (applicant must meet one of the criteria) | Have been or have a parent, legal guardian, sibling, spouse, child, or minor in their guardianship, that's been arrested or convicted of a marijuana offense or civil asset forfeiture related to a marijuana investigation. | Household income did not exceed 50% of the state median income as measured by the number of residents in applicant's household. | Colorado resident that has resided for at least 15 years during 1980-2010 in a census tract designated as an opportunity zone or disproportionate impacted area. | <i>None found</i> |
| Connecticut ⁷⁹ (applicant must meet two of the criteria) | <i>None found</i> | Applicant has an average household income of less than 300% of or three times, the state median household income over the three years before applying. | <ul style="list-style-type: none"> • Resident of disproportionately impacted area for not less than five years of the 10 immediately preceding the date the application was submitted. • Or resident of disproportionately impacted area for not less than nine years before turning 18 years of age. | <i>None found</i> |
| Delaware ⁸⁰ (applicant must meet one of the criteria) | <ul style="list-style-type: none"> • Applicant was convicted of or adjudicated delinquent for any marijuana-related offense except delivery to a minor. • Or is married to or a child of an individual convicted or adjudicated delinquent for any marijuana-related offense. | <i>None found</i> | Applicant has resided for at least five of the preceding 10 years in a disproportionately impacted area. | <i>None found</i> |

⁷⁸ Department of Revenue - Marijuana Enforcement Division. (n.d.). *COLORADO MARIJUANA RULES 1 CCR 212-3 - 1-115 – Definitions*. Code of Colorado Regulations - Secretary of State. <https://www.coloradosos.gov/CCR/GenerateRulePdf.do?ruleVersionId=11261&fileName=1%20CCR%20212-3>

⁷⁹ Connecticut General Assembly. (n.d.). Bill No. 1201 - Connecticut General Assembly. <https://www.cga.ct.gov/2021/TOB/S/PDF/2021SB-01201-R00-SB.PDF>

⁸⁰ Delaware General Assembly. (n.d.). § 1328. *Social equity applicant HOUSE BILL NO. 150*. <https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48480&legislationTypeId=1&docTypeId=2&legislationName=HB150>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|--|---|---|---|---|
| Illinois ⁸¹ (applicant must meet all criteria) | Has at least 51% ownership and control by one or more individuals who: <ul style="list-style-type: none"> • Have been arrested for, convicted of, or adjudicated delinquent for cannabis-related offenses eligible for expungement which includes cannabis possession up to 500 grams or intent to deliver up to 30 grams. | <i>None found</i> | Has at least 51% ownership and control by one or more individuals who: <ul style="list-style-type: none"> • Have lived in a disproportionately impacted area in five of the past 10 years. | <i>None found</i> |
| Maine | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Maryland ⁸² (applicant must meet one of the criteria) | <i>None found</i> | <i>None found</i> | <ul style="list-style-type: none"> • Applicant has lived in a disproportionately impacted for at least five of the last 10 years immediately preceding the date the application was submitted. • Attended a public school in a disproportionately impacted area for five years. | Attended a four-year institution of higher education where at least 40% of the individuals attending were receiving a Pell Grant. |
| Massachusetts ⁸³ (applicant must meet one of the criteria) | <ul style="list-style-type: none"> • Have a past drug conviction and [has been a resident of MA] for at least the preceding 12 months. • Have been married or [are the child of an individual] with a drug conviction and they've been residents of MA for at least the preceding 12 months. | Income does not exceed 400% of area median income and residence in an area of disproportionate impact for at least five of the past 10 years. ⁸⁴ | Have resided in an area of disproportionate impact for at least five of the past 10 years. | Any individual listed as an owner on the original certification of a Certified Economic Empowerment Priority Applicant that meets certain criteria established by the commission. ⁸⁵ |

⁸¹ Illinois Department of Commerce & Equity Opportunity, "Social Equity Applicant Criteria," Illinois.gov, <https://dceo.illinois.gov/cannabisequity/social-equity-applicant-criteria.html>

⁸² Office of Social Equity. (n.d.). *Office of Social Equity Releases Cannabis Social Equity Eligibility Criteria.* <https://mmcc.maryland.gov/Documents/2023%20Social%20Equity%20Verification/Office%20of%20Social%20Equity%20Releases%20Cannabis%20Social%20Equity%20Eligibility%20Criteria.pdf>

⁸³ Cannabis Control Commission, "Guidance for Equity Provisions," https://mass-cannabis-control.com/wp-content/uploads/2018/04/FINAL_Social-Provisions-Guidance-Short-1.pdf.

⁸⁴ <https://masscannabiscontrol.com/equity-programs/>

⁸⁵ Massachusetts Cannabis Control Commission website, <https://masscannabiscontrol.com/equity/getting-started/>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|--|--|--|--|--|
| Michigan ⁸⁶ (applicant must meet one of the criteria) | Conviction of marijuana-related offense, regardless of expungement. | <i>None found</i> | Residency in a disproportionately impacted community for at least five cumulative years within the past 10 years. | Registration as a primary caregiver under the Michigan Medical Marijuana Act for at least two years between 2008 and 2017. |
| Minnesota ⁸⁷ (unclear about how many criteria must be met) | <ul style="list-style-type: none"> Resident for the past five years in area that experienced a disproportionately large amount of cannabis enforcement. Applicant was convicted of an offense involving possession or sale of cannabis prior to May 1, 2023. Or had a parent, guardian, child, spouse, dependent, or was a dependent of an individual convicted of the same offenses prior to May 1, 2023. | <i>None found</i> | Resident for the last five years of one or more census tracts was either: <ul style="list-style-type: none"> The poverty rate was 20% or greater. Median family income did not exceed the greater of 80% of the statewide median family income or 80% of the median family income for that metropolitan area. | <ul style="list-style-type: none"> Military veteran who lost honorable status due to a cannabis-related offense. Applicant is considered an emerging farmer as defined in section 17.055, subdivision 1. |
| Missouri ⁸⁸ (applicant must meet one of the criteria) | Person or their parent convicted of a nonviolent marijuana offense, excluding specific cases (marijuana-related DUI or distributing marijuana to a minor), a year prior. | Net worth under \$250,000 and income below 250% of the federal poverty level for three of last 10 years. | Resident of ZIP code or census tract where: <ul style="list-style-type: none"> 30% or more of the population lives below the federal poverty level. Unemployment is 50% higher than the state average unemployment rate. Historic rate of incarceration for marijuana-related offenses is 50% higher than the rate for the entire state. Graduated from, or has lived, three of the past five years in area with unaccredited school district. | Have a valid U.S. Veterans Affairs service-connected disability card. |

⁸⁶ Marijuana Regulatory Agency, "Social Equity Program," SOM - State of Michigan, <https://www.michigan.gov/mra/social-equity/social-equity-program>.

⁸⁷ Minnesota Legislature. (n.d.). HF 100. HF 100 as introduced - 93rd Legislature (2023 - 2024). https://www.revisor.mn.gov/bills/text.php?number=HF100&version=0&session=ls93&session_year=2023&session_number=0

⁸⁸ Missouri State Constitution. (n.d.). XIV Section 2 Missouri Constitution. <https://revisor.mo.gov/main/OneSection.aspx?section=XIV%20%20202&constit=y>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|--|---|---|--|---|
| Montana | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Nevada ⁸⁹ (applicant must meet all the following criteria) | Applicant was convicted of a nonviolent felony and/or misdemeanor cannabis offense; or the immediate family was convicted of a felony cannabis offenses and meets the geographic criteria established by the board. | <i>None found</i> | Have resided for no less than five of the previous years in (both must be met): <ul style="list-style-type: none"> • Census tract with an Area Deprivation Index score of seven or higher. • Census tract with an incarceration rate in the 90th percentile, or roughly 3.3% of everyone that grew up in the tract was in jail or incarcerated at the time of the 2010 Decennial Census. | Have at least 51% ownership in the business. |
| New Mexico ⁹⁰ (applicant must meet two of the criteria) | Applicant has been cited, arrested or convicted of a felony defined NM Stat 29-3A-5(G) (including as a juvenile), or experienced civil asset forfeiture related to a marijuana investigation. | Applicant has household income at or below average median income in NM. | <i>None found</i> | <ul style="list-style-type: none"> • Enrolled member of an Indian Nation, Tribe or Pueblo, Acequia Parciante in good standing, or qualified Land Grant-mercedes. • Black individuals of African descent; Hispanic individuals of Mexican, Puerto Rican, Dominican, Cuban, Central or South American origin, irrespective of race; Native Americans or Alaskans from North America; and Asians and Pacific Islanders from the Far East, Southeast Asia, the Indian subcontinent, or Pacific islands. • Applicant is a distressed farmer. • Applicant is transgender or gender nonconforming. |

⁸⁹ Nevada Cannabis Compliance Regulations. (n.d.). 5.055 Selection of social equity applicants. https://ccb.nv.gov/wp-content/uploads/2024/01/Reg-5_v111423.pdf

⁹⁰ New Mexico Regulation & Licensing Department - Cannabis Control Division. (2022, February 4). Social Equity Definition and Programming. <https://www.rld.nm.gov/wp-content/uploads/2022/06/CCD-Social-Equity.pdf>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|--|---|--|--|--|
| New Jersey ⁹¹ (applicant must meet either the criminal justice criteria or both, the geographic and economic criteria) | Applicant has been adjudicated delinquent or convicted of at least one marijuana/hashish-related indictable offenses; or at least two marijuana/hashish disorderly persons offenses. | Applicant is a member of a household with a household income that is 80% or less of the state average median income. Geographic criteria must also be met. | Applicant must have lived in an economically disadvantaged area for five of the last 10 years. Economic criteria must also be met. | <i>None found</i> |
| New York ⁹² (applicant must meet one of the criteria, with extra priority given to some) | Extra priority is given to applicant that was convicted of a marijuana-related offense or had an immediate family member or dependent convicted prior to the effective date of the chapter. | Extra priority is given to applicant with an income lower than 80% of the median income in the county they reside in. | Applicant is from a community disproportionately impacted by cannabis enforcement during prohibition. Extra priority is given to an applicant currently in one of these communities. | Applicant demonstrates they're from one of the following groups: <ul style="list-style-type: none"> • Minority-owned business • Women-owned business • Minority and Women-owned business • Distressed farmer • Service-disabled Veteran |
| Ohio ⁹³ | The owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana related offense as determined by rule by the department of development before the effective date of this section. | <ul style="list-style-type: none"> • Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business. • Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts. | The business owner or owners demonstrate long-term residence in an area of high unemployment. | The business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability. |
| Oregon | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |

⁹¹ "Priority Applications," Priority Applications, accessed March 29, 2022, <https://www.nj.gov/cannabis/businesses/priority-applications/>.

⁹² New York Consolidated Laws, Cannabis Law. (n.d.). § 87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program. <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

⁹³ Ohio Revised Code, Title 37 Health-Safety-Morals. (n.d.-c). *Section 3780.19 | Cannabis social equity and jobs program*. Ohio Laws & Administrative Rules - Legislative Service Commission. <https://codes.ohio.gov/ohio-revised-code/section-3780.19>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|---|--|---|---|---|
| Rhode Island ⁹⁴ (applicant must meet one of the criteria) | <ul style="list-style-type: none"> Applicant has been arrested for, convicted, or adjudicated delinquent for any offense eligible for expungement under this chapter; or be a member of an impacted employee. For individuals applying using their employee's status, 51% must demonstrate a record of an eligible offense or be a member of an impacted family. | For individuals applying using their employee's status, at least 51% of employees must have an income that doesn't exceed 400% of the median income, defined by the commission, in a disproportionately impacted area for at least five of the previous 10 years. | <ul style="list-style-type: none"> Applicant has resided in five of the previous 10 years in a disproportionately impacted area. For individuals applying using their employee's status, at least 51% of employees must currently reside in a disproportionately impacted area. | For individuals applying using their employee's status, at least 51% of employees must demonstrate their experience or past involvement in business practices that promote economic empowerment in disproportionately impacted areas. |
| Vermont ⁹⁵ (applicant must meet one of the criteria and be a resident of Vermont) | Applicant, or family member, has been incarcerated for a cannabis related offense. | <i>None found</i> | <ul style="list-style-type: none"> Applicant can demonstrate they're from an area disproportionately impacted by cannabis prohibition and have been personally harmed by the impact. Applicant must currently reside in Vermont. | Applicant is black or Hispanic |
| Virginia ⁹⁶ (applicant must meet one of the criteria and must have lived or domiciled for at least 12 months in Commonwealth prior to applying) | Applicant with 66% ownership by individual(s) convicted of specific marijuana misdemeanors; or is an immediate family member of an individual with the same offense record. | <i>None found</i> | <ul style="list-style-type: none"> Applicant with 66% ownership by individuals residing in areas heavily policed for marijuana crimes. Applicant with 66% ownership by individuals from economically distressed areas for three of last five years. | Applicant with 66% ownership by an individual(s) that graduated from a historically black college in the Commonwealth. |

⁹⁴ Rhode Island General Laws, Title 21 Food and Drugs. (n.d.). R.I. Gen. Laws § 21-28.11-3. <http://webserver.rilin.state.ri.us/Statutes/TITLE21/21-28.11/21-28.11-3.htm>

⁹⁵ GUIDANCE FOR SOCIAL EQUITY APPLICANTS. (2022, July). https://ccb.vermont.gov/sites/ccb/files/2022-07/Social.Equity.Guidance_FINAL_0.pdf

⁹⁶ Virginia General Assembly. (2021, April 7). *SB 1406 Marijuana; legalization of simple possession, etc.* Virginia's Legislative Information System. <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1406>

| State | Criminal justice involvement | Economic status | Geographical criteria | Other |
|---|---|--|---|-------------------|
| Washington ⁹⁷ (applicant must meet two of the criteria) | Applicant, or family member, has been arrested or convicted of a cannabis offense | Applicant's household income in year prior to applying was less than the median household income for WA. | <ul style="list-style-type: none"> • At least a 51% majority, or controlling interest, in, must be held by a person, or persons, who has or have resided in Washington state for six months prior to the application date, and meets at least two of the other criteria. • Applicant(s) have lived in a disproportionately impacted area in Washington for a minimum of five years during 1980-2010 | <i>None found</i> |

Community characteristics

States use a combination of criteria that assess the level of economic disadvantage and/or measures of law enforcement in a given region for classifying communities as disproportionately affected. While some use the percentage of low-income households, others have used alternative economic indicators such as unemployment, SNAP benefits participation or free school lunches. With respect to criminal justice criteria, state and local governments have used rates of marijuana arrests, general drug arrests, and marijuana convictions to measure whether a community suffered higher levels of enforcement. It should be noted that defining disproportionately affected communities presents significant challenges due to incomplete statewide criminal justice data, lack of sufficient detail in available data, and other issues. Table 7 below presents criteria used by a select group of states to identify communities eligible for social equity programs.

Ohio criteria for identifying social equity participants and disproportionately impacted communities

The passed initiative included a mixture of personal and community characteristics for identifying individuals and communities for participation in the social equity program. Namely, the Department of Development was tasked with establishing criteria based on a requirement that the business owner or owners show both social and economic disadvantage based on the following:

“(a) Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business.

(b) Social disadvantage based on any of the following:

⁹⁷ Washington State Legislature. (n.d.). RCW 69.50.335 Cannabis retailer, processor, producer licenses—Issue, reissue of licenses—Social equity applicants—Rules—Definitions. <https://app.leg.wa.gov/rcw/default.aspx?cite=69.50.335>

(i) The business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, or long-term residence in an area of high unemployment;

(ii) The owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana related offense as determined by rule by the department of development prior to the effective date of this section.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts.”⁹⁸

While the personal characteristics are generally well defined, the statute is rather vague about what criteria will be used to identify “areas of high unemployment.” Additionally, in a section that talks about community reinvestment, the language specifies *disproportionately impacted communities* without providing any additional information about which measures will be used to categorize disproportionately impacted communities.

Table 7: Community characteristics for identifying communities eligible for social equity programs in selected states

| State | Economic criteria | Criminal justice criteria | Other |
|-----------------------|---|---|---|
| Alaska | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Arizona ⁹⁹ | Total population receiving SNAP benefits is above 25%. | <i>None found</i> | <ul style="list-style-type: none"> Aggregate population for Black/African American, American Indian/Alaska Native and Hispanic is greater than 50% of the total population. Racial groups excluded from this factor were not disproportionately impacted by the enforcement of previous marijuana laws. |
| California | <i>None on state-level – individual jurisdictions can determine their own criteria.</i> | <i>None on state-level – individual jurisdictions can determine their own criteria.</i> | <i>None on state-level – individual jurisdictions can determine their own criteria.</i> |

⁹⁸ Ohio Revised Code. Section 3780.19 | Cannabis social equity and jobs program. <https://codes.ohio.gov/ohio-revised-code/section-3780.19>

⁹⁹ ARIZONA DEPARTMENT OF HEALTH SERVICES, “Social Equity Ownership - How to Qualify,” n.d., <https://azdhs.gov/licensing/marijuana/social-equity/index.php#qualification> .

| State | Economic criteria | Criminal justice criteria | Other |
|--|--|---|---|
| Colorado ¹⁰⁰ (Disproportionate Impacted Areas must meet at least two of the following categories.) | Census tract in the top 15 th percentiles for at least two of the following categories: <ul style="list-style-type: none"> • The percent of residents in the census tract receiving public assistance • The percent of residents in the census tract falling below the federal poverty level • The percent of residents in the census tract who are unemployed | <i>None found</i> | Census tract in the top 15 th percentile for the following category: <ul style="list-style-type: none"> • The percent of residents in the census tract failing to graduate high school. |
| Connecticut ¹⁰¹ | Census tracts with poverty rates greater than the state-wide poverty rate. | Board shall determine disproportionately impacted areas based on historical conviction rates for drug-related violations between 1982-2020. | <i>None found</i> |
| Delaware | <i>None found</i> | <i>None found</i> | <i>None found</i> |
| Illinois ¹⁰² (to be identified as a disproportionately affected community, the community needs to fit both economic and criminal justice criteria) | Meets at least one of the following criteria: <ul style="list-style-type: none"> • the area has a poverty rate of at least 20% according to the latest federal decennial census; or • seventy-five percent or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education; or • at least 20% of the households in the area receive assistance under SNAP; or • the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the United States Department of Labor, for a period of at least two consecutive calendar years preceding the date of the application. | Has high rates of arrest, conviction, and incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis. | <i>Not applicable</i> |

¹⁰⁰ Department of Revenue - Marijuana Enforcement Division. (n.d.). *COLORADO MARIJUANA RULES 1 CCR 212-3 - 1-115 – Definitions*. Code of Colorado Regulations - Secretary of State. <https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=9438&fileName=1%20CCR%20212-3>

¹⁰¹ Connecticut General Assembly. (n.d.). Bill No. 1201 - Connecticut General Assembly. <https://www.cga.ct.gov/2021/TOB/S/PDF/2021SB-01201-R00-SB.PDF>

¹⁰² Illinois General Assembly, "Illinois Compiled Statutes - 410 ILCS 130/115," Illinois General Assembly - Illinois compiled statutes, accessed March 29, 2022, <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=041001300K115>

| State | Economic criteria | Criminal justice criteria | Other |
|---|---|---|---|
| Maine | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Maryland ¹⁰³ | <i>None found</i> | Geographic area identified by the Office of Social Equity that has had above 150% of Maryland's 10-year average for cannabis possession charges. | <i>None found</i> |
| Massachusetts ¹⁰⁴ (The disproportionate impact score includes four primary factors at a geographic level. Each community is scored based on all four criteria.) | Percent of people living in poverty. | <ul style="list-style-type: none"> • Average annual number of drug arrests. • Average annual rate of drug arrests per 100,000 population. | Percent of residents who report black and/or Latino race/ethnicity. |
| Michigan ¹⁰⁵ (to be identified as a disproportionately affected community, the community needs to fit both economic and criminal justice criteria) | Thirty percent or more of the population living below the federal poverty level; as of June 1, 2020, communities with 20% or more of the population living below the federal poverty level will qualify. | Communities that have marijuana-related convictions greater than the state median. | <i>None found</i> |
| Minnesota | <i>None found</i> | <i>None found</i> | <i>None found</i> |
| Missouri ¹⁰⁶ (State does not define an area of disproportionate impact but has the following criteria for microbusiness applicants) | <ul style="list-style-type: none"> • Thirty percent or more of the population lives below the federal poverty level. • Rate of unemployment is 50% higher than the state average rate for unemployment. | Historic rate of incarceration for marijuana-related offenses is 50% higher than the rate for the entire state. | <i>None found</i> |
| Montana | <i>None</i> | <i>None</i> | <i>None</i> |

¹⁰³ Maryland Code, Title 36. Medical and Adult-use Cannabis. (n.d.). § 36-101. *Definitions*. Maryland Code and Court Rules - Westlaw. [https://govt.westlaw.com/mdc/Document/N6CBB1110EFC811EDA6CDE57E4E864048?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/mdc/Document/N6CBB1110EFC811EDA6CDE57E4E864048?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)

¹⁰⁴ Whitehill JM., Melnik M., Pattavina A., Johnson RM., Loveland R., Bernstein C., English F., Raisz A., McNally, M., Doonan SM., & Johnson JK. (2021, February). Identifying Massachusetts Communities Disproportionately Impacted by Drug Prohibition. Worcester, MA: Massachusetts Cannabis Control Commission. https://donahue.umass.edu/documents/MA_Cannabis_Control_Commission_Study_Report_1_3-11-21_FINAL.pdf

¹⁰⁵ Marijuana Regulatory Agency, "Michigan's Marijuana Regulatory Agency Announces Social Equity Program Expansion," SOM - State of Michigan, accessed March 29, 2022, <https://www.michigan.gov/mra/news-releases/2020/05/19/michigans-marijuana-regulatory-agency-announces-social-equity-program-expansion-1>.

¹⁰⁶ Missouri State Constitution. (n.d.). XIV Section 2 Missouri Constitution. <https://revisor.mo.gov/main/OneSection.aspx?section=XIV%20%20%202&constit=y>

| State | Economic criteria | Criminal justice criteria | Other |
|---|---|--|-------------------|
| Nevada ¹⁰⁷ (State does not define an area of disproportionate impact but has the following criteria for microbusiness applicants) | A census tract that has an incarceration rate in the 90th percentile, or roughly 3.3% of everyone who grew up in the census tract was in jail or incarcerated at the time of the 2010 Decennial Census. | A census tract that has an incarceration rate in the 90th percentile, or roughly 3.3% of everyone who grew up in the census tract was in jail or incarcerated at the time of the 2010 Decennial Census | <i>None found</i> |

¹⁰⁷ Nevada Cannabis Compliance Regulations. (n.d.). 5.055 Selection of social equity applicants. https://ccb.nv.gov/wp-content/uploads/2024/01/Reg-5_v111423.pdf

| State | Economic criteria | Criminal justice criteria | Other |
|------------|---|--|------------|
| New Jersey | <p>Impact Zones¹⁰⁸</p> <p>Has a population of 120,000 or more.</p> <p>Ranks in the top 40% of New Jersey municipalities for marijuana- or hashish-related arrests; has a crime index total of 825 or higher; and has a local average annual unemployment rate in the top 15% of all municipalities.</p> <p>Is located in a county of the third class, based upon the county's population, that meets all of the criteria in (2) other than having a crime index total of 825 or higher; or</p> <p>Is located in a county of the second class, based upon the county's population:</p> <p>(a) with a population of less than 60,000, that ranks in the top 40% of municipalities in the State for marijuana- or hashish-related arrests; has a crime index total of 1,000 or higher; but for calendar year 2019 does not have a local average annual unemployment rate that ranks in the top 15% of all municipalities; or</p> <p>(b) with a population of not less than 60,000 or more than 80,000; has a crime index total of 650 or higher; and for calendar year 2019 has a local average annual unemployment rate of 3% or higher using the same estimated annual unemployment rates."</p> <p>Economically disadvantaged areas:</p> <ul style="list-style-type: none"> • A median income of 80% or less of New Jersey's median household income, and • A health uninsured rate at least 150% of the state's health uninsured rate.¹⁰⁹ | <p>Impact Zones</p> <p>Has a population of 120,000 or more</p> <p>Ranks in the top 40% of New Jersey municipalities for marijuana- or hashish-related arrests; has a crime index total of 825 or higher; and has a local average annual unemployment rate in the top 15% of all municipalities</p> <p>Is located in a county of the third class, based upon the county's population, that meets all of the criteria in (2) other than having a crime index total of 825 or higher; or</p> <p>Is located in a county of the second class, based upon the county's population:</p> <p>(a) with a population of less than 60,000, that ranks in the top 40% of municipalities in the state for marijuana- or hashish-related arrests; has a crime index total of 1,000 or higher; but for calendar year 2019 does not have a local average annual unemployment rate that ranks in the top 15% of all municipalities; or</p> <p>(b) with a population of not less than 60,000 or more than 80,000; has a crime index total of 650 or higher; and for calendar year 2019 has a local average annual unemployment rate of 3% or higher using the same estimated annual unemployment rates.</p> | None found |

¹⁰⁸ New Jersey Cannabis Regulatory Commission, Impact Zones. <https://www.nj.gov/cannabis/businesses/priority-applications/impact-zones.shtml> Accessed on April 5, 2022.

¹⁰⁹ New Jersey Cannabis Regulatory Commission, Economically Disadvantaged Areas, <https://www.nj.gov/cannabis/businesses/priority-applications/eda.shtml> .

| State | Economic criteria | Criminal justice criteria | Other |
|---|---|---|--|
| New Mexico ¹¹⁰ (Extra priority is given to an applicant for the following criteria) | Extra priority is given to applicants that have lived in a New Mexico census tract for five years where at least 17% of the households have incomes at or below the federal poverty level. | <i>None found</i> | <i>None found</i> |
| New York ¹¹¹ | <i>None found</i> | Area has experienced historically high arrests, convictions, or other law enforcement practices reflecting disparate enforcement exceeding the state's arrest rate from 1980 through 2021. | <i>None found</i> |
| Ohio | Definition of disproportionately impacted community has yet to be drafted. | Definition of disproportionately impacted community has yet to be drafted. | Definition of disproportionately impacted community has yet to be drafted. |
| Oregon | <i>No social equity program</i> | <i>No social equity program</i> | <i>No social equity program</i> |
| Rhode Island ¹¹² (Disproportionately Impacted Area must meet one of the criteria) | <ul style="list-style-type: none"> • Area has a poverty rate of at least 20%. • Seventy-five percent or more of the children in the area participate in the federal free lunch program. • At least 20% of the households in the area receive assistance under SNAP. • Area's unemployment rate exceeds 120% of national average for 2 or more consecutive years before application. | <ul style="list-style-type: none"> • Area has disproportionately high cannabis-related arrests, convictions, and incarcerations compared to other communities within the state. • Area with historical disparity in cannabis enforcement compared to rest of state. | <i>None found</i> |
| Vermont ¹¹³ | Community includes individuals from households eligible for/receiving FDPIR or SNAP benefits, excluding certain associations. | <i>None found</i> | <i>None found</i> |

¹¹⁰New Mexico Regulation & Licensing Department - Cannabis Control Division. (2022, February 4). Social Equity Definition and Programming. <https://www.rld.nm.gov/wp-content/uploads/2022/06/CCD-Social-Equity.pdf>

¹¹¹ New York Consolidated Laws, Cannabis Law. (n.d.). § 87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program. <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

¹¹² Rhode Island General Laws, Title 21 Food and Drugs. (n.d.). R.I. Gen. Laws § 21-28.11-3. <http://webserver.rilin.state.ri.us/Statutes/TITLE21/21-28.11/21-28.11-3.htm>

¹¹³ Cannabis Control Board. (n.d.). RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS. <https://ccb.vermont.gov/sites/ccb/files/2022-03/Rule%201%20-%20Licensing%20of%20Cannabis%20Establishments.pdf>

| State | Economic criteria | Criminal justice criteria | Other |
|---|---|--|-------------------|
| Virginia ¹¹⁴ | Statute includes language for identifying social equity applicants as residing for at least three of the past five years in a census tract determined by the board to be economically distressed, but no further detail is provided to determine what is economically distressed. | Statute includes language for identifying social equity applicants as residing for at least three of the past five years in a census tract determined by the board to be disproportionately policed for marijuana crimes, but no further detail is provided to determine what is disproportionately policed. | <i>None found</i> |
| Washington ¹¹⁵ (Disproportionately Impacted Areas must meet all the criteria listed.) | Census tracts in the top 30% for all the following indicators: <ul style="list-style-type: none"> • High poverty rate • High rate of participation in income-based federal programs • High rate of unemployment | Census tracts in the top 30% for all the following indicators: <ul style="list-style-type: none"> • High rate of convictions | <i>None found</i> |

CONCLUDING THOUGHTS

In the last few years, we have seen a gradual shift to a wide acceptance of social equity programs in states that have legalized recreational adult-use marijuana. As shown in Table 1, of the 16 states that have legalized recreational marijuana since 2018, 14 states enacted social equity policies¹¹⁶ as part of their legalization effort. Only Montana did not adopt any social equity provisions and the state of Vermont adopted social equity provisions post-legalization.

But as social equity policies gained momentum, states have also begun to recognize that implementation of these policies involves an array of complications and is often fraught with legal and procedural difficulties and uncertainties. In this last section of the report, we will briefly discuss a few frequently identified issues.

Criminal justice reform

While not all states that have legalized recreational marijuana have embraced government-initiated record relief, there is a general consensus among advocates that the administrative barriers posed by the petition-based system justify advocating for so-called “automatic” or government-initiated record relief. Unfortunately, there is rarely anything automatic about such efforts. For example, California enacted petition-based marijuana-related expungement in 2016 that authorized “individuals who had completed a sentence for a wide range of marijuana offenses (both felony and misdemeanor) to petition the court to either have the conviction dismissed and sealed, resentenced, and/or redesignated, depending on the offense.”¹¹⁷ This was amended in 2018 to require government agencies to initiate the sealing of eligible records.¹¹⁸ Unfortunately, six years later, California has yet

¹¹⁴ Cannabis Control Authority. (n.d.). Cannabis Control Authority, Virginia § 4.1-606. Regulations of the Board. <https://law.lis.virginia.gov/authorities/cannabis-control-authority-virginia/>

¹¹⁵ Washington State Liquor and Cannabis Board. (n.d.). *DIA (Disproportionately Impacted Area) Maps*. DIA (Disproportionately Impacted Area) Maps | Washington State Liquor and Cannabis Board. <https://lcb.wa.gov/se/dia-maps>

¹¹⁶ In respect to industry participation assistance and community reinvestment. Many states have adopted non-marijuana-specific criminal justice reform even prior to marijuana legalization, which for the purposes of this paper we include in our reporting.

¹¹⁷ Collateral Consequences Research Center, Marijuana Expungement - California. Visited on January 19, 2024 - <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-marijuana-legalization-expungement/>

¹¹⁸ Ibid.

to complete expungement of the estimated 227k eligible records, failing to meet the July 2023 deadline established by AB 1706.¹¹⁹

The reasons why implementation of government-initiated record sealing is difficult are numerous but generally revolve around the lack of high-quality data stored in siloed databases as well as the lack of resources to process large numbers of records. Additionally, marijuana-specific record relief is also sometimes hampered by the fact that newly passed legalization statutes do not align with old marijuana criminalization statutes. For instance, when Arizona's voters legalized recreational marijuana in 2020, the resulting statute authorized expungement of "[p]ossessing, consuming, or transporting two and one-half ounces or less of marijuana, of which not more than 12 ½ grams was in the form of marijuana concentrate."¹²⁰ However, because a previous statute classified all possession of marijuana under two pounds as the same offense, court, and police documents generally did not include detailed information about the amount of marijuana found on one's person at the time of arrest.¹²¹

Consequently, Arizona prosecutors and courts spent a vast amount of time and resources in accessing and reviewing original case records to determine whether an applicant is eligible for expungement under the new statute, often to no avail.¹²²

While adopting marijuana-specific record relief might seem like a commonsense policy, policymakers and advocates need to make sure that the admirable intent of a new statute is not impossible to implement in practice, and that the adoption of automatic sealing provisions does not turn into a broken promise of relief.

Industry participation assistance

Numerous press reports have discussed unfulfilled promises of social equity policies focused on industry participation assistance.^{123 124 125} These reports highlight problems such as lengthy delays caused by legal challenges to eligibility criteria and the selection process, unusually high cost of entry combined with lack of access to traditional financing due to cannabis' federal status, unintended consequences of well-meaning but poorly designed regulations, persistent illicit market competition and others. While some programs may have fared better than others in facilitating minority participation in the legal marijuana industry,¹²⁶ designing and implementing well-functioning social equity policies aimed at diversifying the cannabis industry has proven consistently challenging.

Given these challenges, states might want to consider whether facilitating cannabis industry participation among communities that have been disproportionately affected by marijuana criminalization is the most efficient and effective means to achieve the goals of social equity policies – namely, enabling those communities most impacted by marijuana prohibition to benefit economically from the creation of a new industry. Given the resource-intensive nature of the cannabis industry and the challenges posed by the uncertainty stemming from the

¹¹⁹ Bonta, R., California Department of Justice, California Justice Information Services Division, & Bureau of Criminal Information and Analysis. (2023, December). *AB 1706 Legislative Report (Dec. 2023 Edition)*. California Office of the Attorney General. <https://oag.ca.gov/system/files/media/ab1706-q4-report.pdf>

¹²⁰ Arizona Proposition 207: Marijuana Legalization Initiative.

¹²¹ Ashley Oddo, Shannon Johanni & Jana Hrdinová. "Arizona's Proposition 207 in Practice: Impacts of Marijuana Legalization on Public Safety and Workload for Criminal Justice System Actors A Model for Lawmakers Looking To Legalize". *Arizona State Law Journal*. December 2023.

¹²² Ibid.

¹²³ Mona Zhang, Shia Kapos and Natalie Fertig. "Broken promises: How marijuana legalization failed communities hit hardest by the drug war". *Politico*, December 23, 2023. <https://www.politico.com/news/2023/12/23/marijuana-legalization-inner-cities-00121185>

¹²⁴ Geoffrey Lawrence. "Social equity programs in marijuana legalization laws aren't achieving goals of helping victims of the drug war".

Reason Foundation. April 12, 2023. <https://reason.org/policy-study/social-justice-marijuana-legalization-fail-victims-of-drug-war-new-barriers/>

¹²⁵ Kris Krane. "What's Killing Social Equity In Cannabis? Lack Of Banking". *Forbes*, August 1, 2023. <https://www.forbes.com/sites/kriskrane/2023/08/01/whats-killing-social-equity-in-cannabis-lack-of-banking/>

¹²⁶ Mona Zhang, Shia Kapos and Natalie Fertig. "Broken promises: How marijuana legalization failed communities hit hardest by the drug war". *Politico*, December 23, 2023. <https://www.politico.com/news/2023/12/23/marijuana-legalization-inner-cities-00121185>

incongruent federal and state legal environments, policymakers should consider whether other policy areas should be given more weight as they are designing social equity programs for their states.

Community reinvestment

Unlike the other two policy areas, not much has been written about the impact of community reinvestment efforts. As shown in Table 6, community reinvestment efforts tend to be broad in their focus, without well-defined end goals or measures of success, which in turn makes assessing their effectiveness difficult. However, the broad nature of some of the statutory language enacted by states also provides an ongoing opportunity to engage with members of the targeted communities to determine local needs and goals and to tailor specific community reinvestment efforts to achieve these objectives most effectively and efficiently. If the primary goal of social equity programs is to uplift struggling communities economically, then investment into things such as job training, minority business loan programs, scholarships, and other areas of need might be a more effective way to reach this objective than only focusing on facilitating cannabis industry participation.

Defining social equity applicants and disproportionately impacted communities

The first step in identifying social equity program participants and disproportionately impacted communities is to select a set of eligibility criteria. While this might seem like a straightforward process, it is a complex problem as policymakers do not want to set the criteria so broad that it includes almost everybody, or so narrow, that the program ends up serving very few. Additionally, policymakers must pay attention not only to what would make the best selection criteria but also whether the selected criteria can be supported by easily accessible, high-quality, and accurate data. As many criminal justice scholars know, the quality and availability of criminal justice data across the United States is abysmal, making any criminal justice criteria fraught with difficulty. When it comes to economic selection criteria, the availability of data on things such as unemployment, school lunches or SNAP benefits is generally better, but it comes with another challenge – choosing the right time for determining eligibility. If lawmakers use present data only, they might be excluding people who have suffered economic hardship historically, but now find themselves living in a recently gentrified area. This all shows that identifying individuals and communities worthy of support through social equity programs can be a difficult and complex challenge.

Need for data collection to allow for a rigorous evaluation of social equity programs

Statewide social equity policies enacted because of marijuana legalization are still very new, with the oldest dating back to the summer of 2018.¹²⁷ It is still too soon to conclude that these programs cannot accomplish their goals even as they experienced early difficulties. These difficulties should not be viewed as a reason to give up on social equity policies, but rather as a reason to ensure that as new policies are adopted, and old policies are adjusted, necessary data is being collected to allow for a rigorous evaluation of the program's effectiveness. This will require a clearer articulation of goals for each of the policy areas, and a purposeful effort to collect data on all aspects of social equity policy. While diversifying the cannabis industry might be deemed a worthy goal, other objectives for community reinvestment and criminal justice reform can and should also be assessed to ensure that tax revenue is being invested responsibly.

¹²⁷ Massachusetts Cannabis Control Commission, June 28, 2018, *Cannabis Control Commission Launches First-in-the-Nation Social Equity Program*. Press release. <https://archives.lib.state.ma.us/server/api/core/bitstreams/2e17eb20-cab0-4f38-bea9-5b6421ef7b39/content>