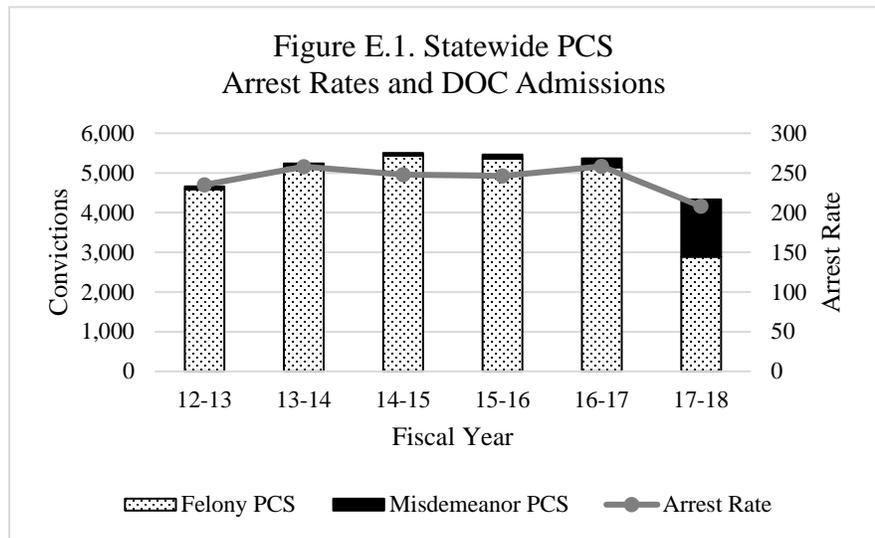


Possession of Controlled Substances Report
Per House Bill 2355 (2017)
Executive Summary

HB 2355 (2017) reclassified the crime of possession of a controlled substance (PCS) to a Class A misdemeanor from a Class B or C Felony. There are exceptions to the reclassification of PCS for the possession of larger amounts of narcotics, as well as for individuals with pre-existing felony convictions. The bill also required the Oregon Criminal Justice Commission to study the effect of the reduction in possession penalties on the criminal justice system, rates of recidivism, and the composition of convicted offenders.

While it is too soon to judge the impact of this law change on recidivism rates,¹ the law has had a profound impact on our criminal justice system. Two impacts stand out significantly. First, within the span of one year there has been a drop of approximately 2,000 felony convictions for PCS. This reduction amounts to roughly a 40% reduction of felony PCS convictions in the state. From that decrease, it can fairly be inferred that this legislation has had a major effect on reducing the number of collateral consequences² that would have been faced by individuals in Oregon absent the law change. Second, the disparate rates at which felony convictions for PCS were historically allotted among racial and ethnic groups have been reduced statewide and notably have been very dramatically reduced in Multnomah county.

To study the impacts of HB 2355, the CJC utilized arrest data from the Oregon Law Enforcement Data System (LEDS) and conviction data from the Oregon Department of Corrections (DOC). As shown in Figure E.1, following the enactment of HB 2355 both arrest rates and convictions for PCS fell. Specifically, in the most recent fiscal year, arrests for PCS fell by just over 19 percent, while total



convictions fell by nearly 20 percent. In addition to these overall trends, the share of misdemeanor convictions rose sharply, increasing from 224 in 2016-2017 to 1,443 in 2017-2018, an increase of over 500 percent. While the drop in arrests cannot be attributable to a single factor and may at least partially

¹ The definition of recidivism in Oregon requires three years of monitoring for arrests for a new crime, convictions for a new crime, and incarceration for a new crime. ORS 423.557

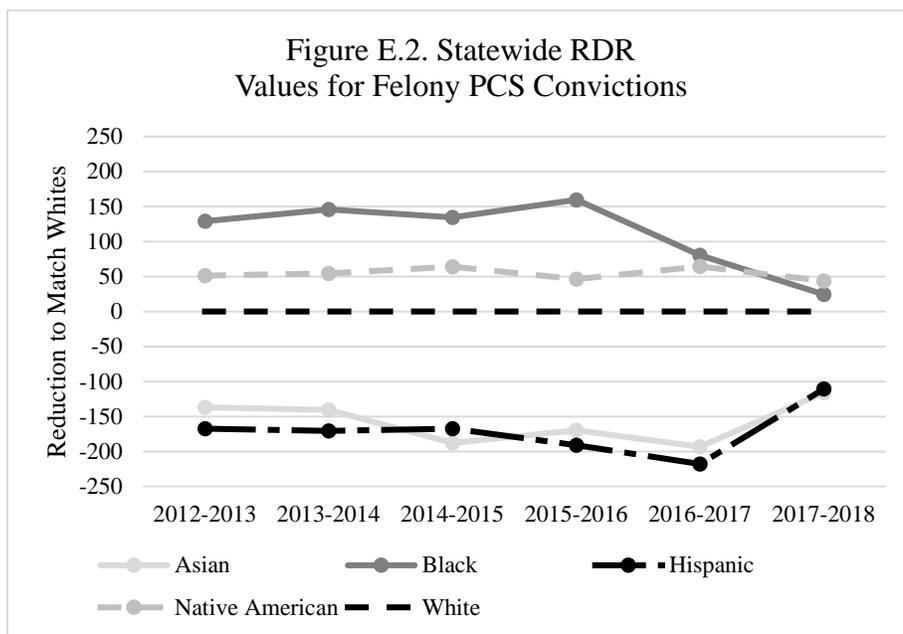
² “Too often, individuals with addiction issues find their way to the doorstep of the criminal justice system when they are arrested for possession of a controlled substance. The penalty is often a felony drug conviction where the person may receive a jail sentence, are placed on probation and receive limited treatment services. Unfortunately, felony convictions in these cases also include unintended and collateral consequences including barriers to housing and employment and a disparate impact on minority communities.” Press Release of the Oregon Association Chiefs of Police and the Oregon State Sheriffs Association, dated September 26, 2016.

reflect staffing levels, policing strategies, and other variables beyond the scope of this review, the increase in misdemeanor convictions directly reflects the sentencing modifications made by HB 2355.

Beyond these general effects, the changes mandated by HB 2355 have had other impacts as well. First, due to the reduction in PCS convictions more generally, as well as to the rise in misdemeanor convictions, the number of Oregonians convicted of their first felony sentence fell significantly. Specifically, after relative stability in the first five years of the study period, the number of first-time felony convictions fell by just over 50 percent in 2017-2018. This means that almost 1,000 Oregonians have avoided felony status who would likely have become felons before passage of HB 2355.

Second, as mentioned above, data indicates that there have been significant changes in racial disparities for felony PCS since HB 2355 went into effect. To examine racial disparities, the CJC utilized the raw differential representation (RDR) metric, a means for examining disparities in criminal justice system outcomes that does not suffer from the significant shortcomings encountered when using risk ratios. A positive RDR indicates that a group is overrepresented relative to Whites, while a zero value or negative value indicates that a group is either equal to or underrepresented relative to whites, respectively.

Applying the RDR metric, the CJC determined that racial disparities in arrests for PCS were consistent throughout the study period and were not affected by the changes enacted in HB 2355. Patterns for felony convictions, however, were quite different. As shown in Figure E.2, disparities improved significantly for felony convictions following HB 2355. For Black Oregonians, the racial group who has historically experienced



the greatest racial disparity compared to whites for felony PCS convictions, disparities fell significantly. As shown by the RDR metric, while an average of 142 fewer Blacks per year would have had to have been convicted of PCS to reach parity with Whites during the first four years of the study, this disparity fell to 80 in 2016-2017 and 24 in 2017-2018, an overall reduction in the disparity of over 80 percent.

While HB 2355 has only been in effect for a little over one-year, early results show dramatic changes in Oregon’s criminal justice system. The CJC will continue to monitor these system effects. Shortly after the publication of this report the CJC will launch an updated version of its “PCS Dashboard” so that any interested member of the public can monitor these trends for themselves.³ Furthermore, once enough time has gone by, we will undertake an evaluation of the impact of this law change on the recidivism rates of people convicted of misdemeanor and felony PCS.

³ The updated dashboard can be found by following this link: <https://www.oregon.gov/cjc/data/Pages/main.aspx>