

# Statewide Issue

**JON HUSTED**

Ohio Secretary of State



I, Jon Husted, certify that printed below are the full text, ballot language, and arguments that were certified by the Ohio Ballot Board, or filed with the Secretary of State as prescribed by law, for the constitutional amendment proposed by initiative petition pursuant to Article II, Section 1a of the Ohio Constitution.

IN TESTIMONY WHEREFORE, I have subscribed my name in Columbus, Ohio, this seventeenth day of September, 2018.

In addition to certifying the following State Issue for the General Election occurring November 6, 2018, R.C. 3505.062(G) and Ohio Constitution Article II, Section 1g require Secretary of State Jon Husted to contract for the publication of this information once a week for three (3) consecutive weeks preceding the election in at least one (1) newspaper of general circulation in each county in the state.

A handwritten signature of Jon Husted in black ink.

Jon Husted  
OHIO SECRETARY OF STATE

## Table of Contents

ISSUE 1 – To Reduce Penalties for Crimes of Obtaining, Possessing, and Using Illegal Drugs	
Ballot Language .....	1
Argument FOR Issue 1 .....	2
Argument AGAINST Issue 1 .....	2
Full Text of Amendment .....	3

## BALLOT LANGUAGE

### Issue 1

#### To Reduce Penalties for Crimes of Obtaining, Possessing, and Using Illegal Drugs

#### Proposed Constitutional Amendment

#### Proposed by Initiative Petition

#### To add a new Section 12 to Article XV of the Constitution of the State of Ohio

**A majority yes vote is necessary for the amendment to pass.**

If adopted, the amendment would:

- Require sentence reductions of incarcerated individuals, except individuals incarcerated for murder, rape, or child molestation, by up to 25% if the individual participates in rehabilitative, work, or educational programming.
- Mandate that criminal offenses of obtaining, possessing, or using any drug such as fentanyl, heroin, methamphetamine, cocaine, LSD, and other controlled substances cannot be classified as a felony, but only a misdemeanor.
- Prohibit jail time as a sentence for obtaining, possessing, or using such drugs until an individual's third offense within 24 months.
- Allow an individual convicted of obtaining, possessing, or using any such drug prior to the effective date of the amendment to ask a court to reduce the conviction to a misdemeanor, regardless of whether the individual has completed the sentence.
- Require any available funding, based on projected savings, to be applied to state-administered rehabilitation programs and crime victim funds.
- Require a graduated series of responses, such as community service, drug treatment, or jail time, for minor, non-criminal probation violations.

#### SHALL THE AMENDMENT BE APPROVED?

- YES  
 NO

# Proposed Constitutional Amendment

## ARGUMENT FOR ISSUE 1

### VOTE YES ON STATE ISSUE 1

**VOTE YES on Issue 1** to reduce the number of people in state prison for low-level, nonviolent crimes and put the money to better use by directing savings to drug treatment and crime victims.

✓ **YES on Issue 1 saves taxpayer dollars:** Ohio spends more than \$1.8 billion per year on a broken prison system where too many people who pose little public safety risk are incarcerated while treatment and prevention programs suffer. Issue 1 will save tens of millions of dollars annually in prison spending and direct the savings to addiction treatment and victims of crime.

✓ **YES on Issue 1 puts our public safety dollars to better use:** Wasting law enforcement resources and prison on people struggling with addiction makes no sense. Issue 1 requires misdemeanors instead of felonies for low-level drug possession offenses and requires community service, treatment or local jail, instead of state prison, for people convicted of these crimes or who break probation rules (such as missing a meeting). Treatment and supervision work better to improve public safety than a revolving prison door.

✓ **YES on Issue 1 reduces recidivism:** Issue 1 expands earned-credit programs so that qualified people can be considered for release if they participate in rehabilitation programs. Experts agree that requiring people to earn their way out of prison through rehabilitation reduces the likelihood they'll commit more crimes.

✓ **YES on Issue 1 protects public safety:** This was carefully written to ensure that people that are a danger to public safety remain incarcerated. No one convicted of murder, rape or child molestation will benefit from any aspect of this measure.

**Issue 1 has bipartisan support from law enforcement, mental health and addiction treatment providers, nurses, faith leaders, and victims of crime.**

**SAVE MONEY. IMPROVE PUBLIC SAFETY.**

*Submitted by Ohio Safe and Healthy Communities Campaign*

## ARGUMENT AGAINST ISSUE 1

### Vote “NO” on Issue 1

#### Issue 1 is dangerous.

- Possession or use of any amount of deadly drugs like fentanyl, heroin, and meth will result in probation - lighter punishment than offenses like disorderly conduct and reckless operation.
- The message to children is that these drugs are not dangerous.
- The message to drug traffickers is that doing business in Ohio is low risk.
- Violent offenders cannot be sent to prison for probation violations. They will be free to disregard judges' orders with little consequence.

#### Issue 1 undermines treatment.

- Treatment for addiction is not provided or required by this amendment. An addict is on his own in getting sober.
- Courts connect addicts to treatment and help motivate success.
- Many addicts forego treatment entirely without the threat of prison.
- The proposal dooms effective treatment efforts in courts across Ohio.

#### Issue 1 reduces sentences for violent offenders.

- Drug traffickers, human traffickers, aggravated robbers, and others will be eligible for up to a 25% sentence reduction.
- Victims of violent crime will receive only partial justice.
- Issue 1 places the rehabilitation and well-being of those who break the law ahead of the rehabilitation and well-being of innocent victims.

#### Issue 1 is an unfunded mandate. It shifts costs to local government.

- Proponents speculate that savings from letting violent offenders and drug offenders out of prison will result in millions of dollars for treatment.
- It is not clear that the savings will be anything other than a one-time savings.
- Speculation about savings is not the same as dedicated funding.
- Local taxpayers will be left with the bill.

Keep Ohio courts and treatment efforts effective. Keep violent offenders off our streets.

Vote “NO” on Issue 1.

*Louis Tobin, Executive Director, Ohio Prosecuting Attorneys Association  
Paul Pfeifer, Executive Director, Ohio Judicial Conference*

# Proposed Constitutional Amendment

## FULL TEXT OF AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

### §12 Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment

#### (A) Findings and Declarations.

The People of the State of Ohio find and declare that drug addiction is a serious societal problem that presents issues of public health and safety and incarcerating users rather than by providing treatment poses a threat to public safety and is an inefficient use of criminal justice resources, and further find and declare that prison spending should be focused on violent and serious offenses and preparing individuals for release through rehabilitation while maximizing alternatives for non-serious non-violent crime.

#### (B) Purpose of this Section and Savings Achieved from Prison Population Reduction.

(1) In adopting this Section, it is the purpose and intent of the people of the State of Ohio to ensure that state prison spending is focused on violent and serious offenses and to invest future savings generated from this Section into substance abuse treatment programs, crime victim programs, and other purposes consistent with this Section.

(2)(a) To support substance abuse treatment programs, crime victim programs, and other purposes consistent with this Section, such as adult and juvenile probation department programs, graduated responses programs, and rehabilitation programs for people in the justice system, the general assembly shall include in the State biennial budget

appropriations of funds from the savings to the State achieved as a result of the implementation of this Section. The funds disbursed pursuant to this Section are intended to supplement, not supplant, funding obligations of the state and local governments.

(b) Seventy percent of the funds to be disbursed under this Section shall be disbursed to the state department of mental health and addiction services, or its successor, for a grant program funding substance abuse treatment programs, services, and supports throughout Ohio. The state department of mental health and addiction services, or its successor, shall award the grants pursuant to an application program with an emphasis on the demonstrated need of the population to be served by the applicant, the applicant's proposed use for the funds, and the applicant's demonstrated ability to achieve successful results with effective programs. The state department of mental health and addiction services, or its successor, shall conduct a biennial evaluation of the efficiency and effectiveness of the substance abuse treatment programs and services funded under this Section.

(c) Thirty percent of the funds to be disbursed under this Section shall be disbursed for purposes that are consistent with the intent of this Section, such as crime victim programs, adult and juvenile probation department programs, graduated responses programs, and rehabilitation programs for people in the justice system. To reduce further victimization of underserved victims of violent crime, at least half of such funds shall be disbursed to the attorney general for a grant program funding victim trauma recovery services. The attorney general shall conduct a biennial evaluation of the efficiency and effectiveness

of the trauma recovery services for crime victims funded under this Section.

(d) The general assembly may adjust the ratio of funds to be disbursed pursuant to this division for substance abuse treatment programs, services, and supports and for other purposes consistent with this Section after the first three biennial appropriations and every three biennial appropriations thereafter. Under any adjusted ratio of funds by the general assembly, no less than fifty percent of the total funds shall be disbursed for substance abuse treatment programs, services and supports, and no less than ten percent for crime victim trauma recovery services.

(e) The funds disbursed under this division may be used by the recipients without regard to the fiscal year for which the funds were appropriated or disbursed.

#### (C) Sentence Credits for Rehabilitation.

The Ohio Department of Rehabilitation and Correction, or its successor, shall grant to an incarcerated individual one half of one day of credit toward satisfaction of the individual's stated sentence for each day they participate in appropriate rehabilitative, work, or educational programming, up to a maximum of twenty-five percent of the individual's stated sentence. The Ohio Department of Rehabilitation and Correction may, at its discretion, grant up to thirty days of additional credit toward satisfaction of an individual's stated sentence for completion of appropriate rehabilitative, work, or educational programming. This division shall not apply to any individuals who are serving sentences of death or life without the possibility of parole, nor to individuals serving

sentences for murder, rape, or child molestation.

#### (D) Reclassification of Certain Non-Serious, Non-Violent Drug Offenses.

With respect to state laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense, in no case shall any offense be classified higher than a misdemeanor. The misdemeanor classification may be a general classification or a special classification for the offense. The sanctions authorized may not exceed those of a first-degree misdemeanor, and, for an individual's first or second conviction within a twenty-four month period, the sanctions shall not exceed probation. If an individual has more than two convictions within a twenty-four month period, then sanctions may include jail time or probation in lieu of jail time.

#### (E) Graduated Responses for Non-Criminal Violations of Probation.

Within ninety days of the effective date of this Section, each trial court with jurisdiction to revoke an adult's or juvenile's probation for a non-criminal violation shall prepare and submit for approval to the Ohio Department of Rehabilitation and Correction, or its successor, guidelines for graduated responses that may be imposed for such violations. An individual who, on or after the effective date of this Section, is on probation for a felony offense shall not be sent to prison on a probation revocation for non-criminal violations of the terms of their probation. Non-criminal violations shall be dealt with in accordance with guidelines for graduated responses.

#### (F) Retroactive Application of this Section.

(1) Any individual who, prior to the effective date of this

# Proposed Constitutional Amendment

Section, was convicted under Ohio law of an offense of possessing, obtaining, or using a drug or drug paraphernalia, or was adjudicated a delinquent based on such an offense and who has not completed their sentence for such offense, may petition the court in which the conviction or adjudication occurred to have such charge changed to the respective class of offense as determined by the general assembly in accordance with this Section, and shall be re-sentenced and/or released, unless the court makes a finding and sets forth a particularized factual basis that the individual presents a risk to the public and should not be re-sentenced and/or released.

(2) Any individual who, prior to the effective date of this Section, was convicted under Ohio law of an offense of possessing, obtaining, or using a drug or drug paraphernalia, or who was adjudicated a delinquent based on such offense, and who has completed their sentence for such offense, may petition the court in which the conviction or adjudication occurred to have such charge changed to the respective class of offense as determined by the general assembly in accordance with this Section.

(G) Provisions Do Not Apply to Convictions for the Sale, Distribution, or Trafficking of Drugs.

Divisions (D) and (F) of this Section do not apply to convictions for the sale, distribution, or trafficking of drugs or to convictions for any drug offense that, based on volume or weight, and as of January 1, 2018, was classified as a first, second, or third-degree felony offense.

(H) Provisions Do Not Apply to Convictions for Murder,

Rape, or Child Molestation.

Nothing in this Section shall be construed as applying to, changing, or affecting laws or sentencing for the incarceration of individuals convicted of murder, rape, or child molestation.

(I) Calculation of Savings to the State.

(1) The general assembly shall include the appropriations set forth in Division (B) of this Section in each State biennial budget beginning with the budget commencing July 1, 2019, in a total amount equal to the projected savings in state costs that will result from the implementation of this Section during the biennium period.

(2) The projected savings in state costs shall be the sum of the following calculations:

(a) The State shall project the fewer number of days of incarceration that will be served in state prisons during the biennium as a result of Divisions (C), (D), and (F) of this Section and multiply the number by a per-diem amount of forty dollars.

(b) The State shall project the fewer number of days of incarceration that will be served in state prisons during the biennium as a result of Division (E) of this Section and multiply the number by a per-diem amount of thirty dollars.

(3) The general assembly shall enact a system to adjust appropriations under this Section at the close of the biennial budget period based upon true-ups of the projected savings.

(4) The per-diem figures used in this subdivision shall be adjusted each State biennial budget by the rate of inflation for the previous biennial budget period according to the consumer price index or its successor.

(5) In making the calculations required by this Section, the State shall use actual data or best available estimates where actual data is not available.

(J) Definitions.

As used in this Section:

(1) “Drug” means any controlled substance, compound, mixture, preparation, or analog intended to be injected, ingested, inhaled, or otherwise introduced into the human body as identified and regulated by the general assembly.

(2) “Possessing, obtaining, or using a drug” does not include possession of a drug for purposes of the sale, distribution, or trafficking of drugs

(3) “Drug paraphernalia” means any equipment, product, or material used or intended to be used in connection with the possession or use of a drug.

(4) “Possessing, obtaining, or using drug paraphernalia” does not include possession of drug paraphernalia for purposes of the sale, distribution, or trafficking of drugs.

(5) “Laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense” do not include laws that make it a criminal offense to possess a drug or drugs for purposes of the sale, distribution, or trafficking of drugs.

(6) “Graduated responses” means an accountability-based graduated series of sanctions and incentives designed to protect communities, hold people accountable, and prevent repeat offenses by providing appropriate responses for unlawful actions and by inducing and reinforcing law-abiding behavior. This schedule of responses may include, but is not limited to, drug treatment, community service, fines, electronic monitoring,

detention other than in a county or municipal jail, detention in a county or municipal jail, but only upon the court making a finding and setting forth a particularized factual basis that the individual presents a risk to themselves or the public, and earned rewards, such as reduced sentences for compliant conduct as the trial court deems appropriate.

(7) “County or municipal jail” means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse.

(8) A “non-criminal violation” of the terms of probation includes, but is not limited to, actions such as a drug use relapse, missing a curfew, missing or being late for a probation meeting, changing an address without permission, failing to timely pay a fine, or failing to perform required community service. An action that results in a criminal conviction is not a non-criminal violation under this Section.

(9) “Probation” includes community control sanctions.

(K) Liberal Construction.

This Section shall be liberally construed to effectuate its purpose.

(L) Conflicting laws.

This Section shall supersede any conflicting state and local laws, charters, and regulations or other provisions of this constitution.