

State Issue 1: 5 Editorial Board Talking Points

1. **The amendment undermines current effective forms of treatment in the criminal justice system.** A judge's ability to enforce treatment orders is nullified and will result in fewer people going to treatment and staying in treatment. Specialized dockets could become effectively useless.¹ The amendment does not replace the current effective forms of treatment in the criminal justice system with any other mechanism that ensures that people who need treatment get it.
2. **The amendment potentially creates a class of criminal that cannot be penalized under the law** by changing probation revocation sanctions. A felon put on probation but completely unamenable would not be subject to his suspended sentence.²
3. **The amendment could increase, without funding,³ the workload of the court system** by (1) moving cases from common pleas courts to municipal courts that, importantly, are not currently equipped with the same types of resources and (2) allowing petitions to the sentencing court to retroactively reclassify drug possession charges.⁴ The amendment could increase, without funding, caseload in family courts as the problem of addicted parents unable to care for their children will only be exacerbated.
4. The amendment should be a legislative initiative; the amendment is poorly drafted and could have been vetted and perfected through the legislative process. Instead, **Issue 1 will be enshrined in the Constitution and it will not be possible to change even a single word without another constitutional amendment**, years from now.⁵ (An example of an unintended consequence that cannot be changed: date rape drugs⁶ are treated the same as all other drugs in the ORC. With Issue 1 passage, possession of date rape drugs – which certainly does not indicate an addiction, but does indicate criminogenic behavior – would be a misdemeanor with no prison or jail time.)
5. **The amendment is not a result of citizen initiative**, even though it purports to be. 99.5% of Issue One funding comes from out-of-state groups, including Facebook co-founder Mark Zuckerberg's Chan Zuckerberg Initiative, George Soros's Open Society Policy Center and the Philanthropy Project, which is funded by Facebook co-founder Dustin Moskovitz. Criminal justice and treatment experts were not asked for their input until after the amendment's language was certified.

¹ Reclassification of all drug possession (Sec. 12(D)) means there is no incentive to go to treatment and no enforcement mechanism for the courts. No probation revocation on any crime (drug or otherwise, at Sec. 12(E)) undercuts a court's ability to enforce orders even more.

² Sec. 12(E). It removes the possibility of prison for a probation revocation (for any felony, not just drug-related offenses) unless a person commits a new criminal act (Sec. 12(J)(8)). Jail is a possibility only if, after stating particularized facts on the record, the judge finds someone a danger to himself or others. Sec. 12(J)(6)

³ The funding portion of the bill is based entirely on speculation and is not guaranteed. Whether courts, probation departments, and local jails will get any additional funding is entirely unknown. Sec. 12(B)(2)(c) and (d)

⁴ Sec. 12(D)

⁵ Neither California nor Oklahoma changed their Constitutions – they changed their statutes through ballot vote so that they would retain the flexibility to correct problems as they arise.

⁶ The most common date rape drugs are: flunitrazepam (Rohypnol), also called roofies; gamma hydroxybutyric acid (GHB); and ketamine, also called Special K.