

STATE QUESTION NUM. 4

Amendment to the Ordinance of the *Nevada Constitution* and the *Nevada Constitution*

Assembly Joint Resolution No. 10 of the 81st Session

Shall the Ordinance of the *Nevada Constitution* and the *Nevada Constitution* be amended to remove language authorizing the use of slavery and involuntary servitude as a criminal punishment?

Yes

No

EXPLANATION & DIGEST

EXPLANATION— This proposed amendment removes from the Ordinance of the *Nevada Constitution* and from the *Nevada Constitution* the language that allows for slavery or involuntary servitude as a punishment for crimes. “Slavery,” as defined by Black’s Law Dictionary, is a situation in which one person has absolute power over the life, fortune and liberty of another person. For the purposes of a federal statute prohibiting involuntary servitude as a means of enforcing a similar prohibition against involuntary servitude in the *United States Constitution*, the United States Supreme Court defined involuntary servitude to mean the use or threat of physical restraint or physical injury, or coercion through law or the legal process, to force a person to work. *United States v. Kozminski*, 487 U.S. 931, 952 (1988)

Currently, Article I, Section 17 of the Ordinance of the *Nevada Constitution* and the *Nevada Constitution* prohibit slavery and involuntary servitude, except as punishment for a crime for which a person has been convicted. This amendment removes this exception, clarifying that slavery and involuntary servitude are prohibited in all circumstances.

A “Yes” vote would prohibit the use of slavery and involuntary servitude as a punishment for a crime.

A “No” vote would maintain the current language authorizing the use of slavery or involuntary servitude as a punishment for a crime.

DIGEST—As included in the original Ordinance of the *Nevada Constitution* and the *Constitution of the State of Nevada*, slavery and involuntary servitude are prohibited, except as punishment for a crime. This resolution proposes to amend the Ordinance of the *Nevada Constitution* and the *Nevada Constitution* to remove language authorizing the use of slavery and involuntary servitude as a criminal punishment.

ARGUMENTS FOR PASSAGE

Slavery and involuntary servitude are morally unacceptable and should not exist in any form, even in our prison system. This form of punishment for crime has a history of discrimination and lack of respect for basic human rights and has had disproportionate and hurtful impacts. Nevada is not the only state considering this change. In recent years, seven of the 23 states that permitted slavery or involuntary servitude as forms of criminal punishment in their state constitutions removed this language. By voting for this ballot question, Nevadans are signaling that we no longer accept this hurtful and outdated form of punishment in our most important legal document.

In our prison system, offenders have the opportunity to volunteer for work in prison, earning work credits towards their sentences or wages that go toward, among other things, restitution, child support, and commissary. This change is not intended to impact those voluntary work programs. Removing language authorizing the use of slavery or involuntary servitude as punishment for crime would get rid of hurtful and offensive language in our *Constitution* while allowing voluntary work programs to continue.

Vote “Yes” on Question 4 and abolish slavery from the *Nevada Constitution* once and for all.

ARGUMENTS AGAINST PASSAGE

Proponents of Question 4 want voters to believe that this change to the *Nevada Constitution* will not negatively affect the criminal justice system. However, this ballot question could lead to unintended consequences within the criminal justice system relating to prison work requirements, community service, and parole and probation.

Removing the language may create legal uncertainty in the State around current offender work practices. The uncertainty arising from the passage of Question 4 could impact prison work assignments, such as clerks, cooks, boiler operators, and porters that provide the basic labor to meet the institutions’ operational needs. Additionally, offenders who voluntarily participate in work programs that provide life skills, job training, and rehabilitation and offenders who chose community service as an alternative to incarceration may lose these opportunities.

Vote “No” on Question 4 against this unnecessary change to the *Nevada Constitution*.

FISCAL NOTE

Financial Impact—Cannot Be Determined

The provisions of Question 4 remove existing provisions in the Ordinance of the *Nevada Constitution* and Article 1, Section 17 of the *Nevada Constitution* that allow slavery and involuntary servitude to be utilized as a criminal punishment. If this ballot question is approved by the voters, the removal of this exception may require the State and local governments to revise laws, policies or procedures relating to prison labor, parole and probation, community service and other programs that may require labor to be performed by an offender as a condition of his or her sentence, if it is determined that the existing laws, policies or procedures may be in violation of the *Nevada Constitution*.

To the extent that any laws, policies or procedures would need to be revised, the changes may have a financial impact upon the State or local governments utilizing these programs. However, because it is not known what changes may be required, if any, to comply with these provisions, nor can the changes that would be made by the State or a local government, if any, be predicted, the resultant effect on the State or local governments cannot be determined with any reasonable degree of certainty.