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OHIO LEGISLATIVE SERVICE COMMISSION

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H.J.R. 2
135th General Assembly

Resolution Analysis

Version: As Introduced

Primary Sponsors: Reps. Jarrells and Plummer

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SUMMARY

- Proposes to amend the Ohio Constitution to prohibit slavery or involuntary servitude as punishment for a crime.
- Permits a court, probation agency, or parole agency to order convicted persons to engage in education, counseling, treatment, community service, or other alternatives to incarceration, as part of sentencing for the crime, to provide accountability, reformation, protection of society, or rehabilitation.

DETAILED ANALYSIS

Involuntary servitude

The resolution proposes to amend the Ohio Constitution to prohibit involuntary servitude in Ohio for the punishment of crime. Additionally, the resolution declares that there shall never be slavery in the state of Ohio.

Currently, the Ohio Constitution prohibits slavery and involuntary servitude, except that it permits involuntary servitude as punishment for a crime.

The resolution also permits a court, probation agency, or parole agency to order convicted persons to engage in education, counseling, treatment, community service, or other alternatives to incarceration, as part of sentencing for the crime, in accordance with programs that have been in place historically or that may be developed in the future, to provide accountability, reformation, protection of society, or rehabilitation.¹

¹ Ohio Constitution, Article I, Section 6.

This latter provision addresses continuing access to community service programs and similar alternatives to incarceration as punishment for a crime, which otherwise possibly could be considered “involuntary servitude.”

Election and effective date

The resolution specifies that the amendment will be submitted to the electors at the general election to be held on November 7, 2023. If adopted by a majority of electors voting on it, the amendment takes effect immediately.

Historical context

Article 1, Section 6 of the Ohio Constitution of 1851 (carried unchanged into Ohio’s current Constitution) is based on the Northwest Ordinance of 1787, a pre-constitutional charter document that governed the Ohio territories, among others. Many free states at the time carried similar provisions into their constitutions, and it formed the basis of the Thirteenth Amendment to the U.S. Constitution, which provides:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Involuntary servitude as punishment for a crime has been held to be lawful in the U.S., in the form of prison labor.² It is not clear how the amendment would affect prison labor practices in Ohio.

HISTORY

Action	Date
Introduced	05-30-23

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² *United States v. Reynolds*, 235 U.S. 133, 149 (1914).