

Why I'm Voting No on Issue 1

Jillian Boone, Fairfield County Common Pleas Court Magistrate & Court Administrator

Those in favor of Issue 1 are calling it “The Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment.” But ironically, I think that title sums up why I *oppose* Issue 1: because passage of it would actually *remove* the ability of the criminal justice system to hold offenders accountable, to ensure drug addicts commit to their sobriety, and to keep neighborhoods safe. I am voting no on Issue 1 in November for several reasons, three of which are set forth below.

First, let me be clear: many criminal defendants are not bad people. But let me also be clear: many criminal defendants are also not amenable to probation. That’s what judicial discretion is for. It is the essence of a judge’s job: to weigh all factors and impose sentences on a case-by-case basis. But Issue 1 largely removes that discretion, and really only benefits those that don’t deserve it. Why do I say that? Because under the current laws, there are already diversion programs and expungement provisions that benefit the “first-time” felons. By statute, there is also a presumption of probation for low-level felony offenses such as drug possession. So, as the law currently stands, the “I-made-a-stupid-decision-at-a-college-party-and-used-cocaine” offender, who is willing to comply with court orders and basic terms of probation will likely either (1) complete a diversion program and never have a felony record or (2) be eligible for expungement. Moreover, there are judges and drug courts all over the state who are already tackling innovative ways to help those individuals who are serious about getting clean. That’s why I say Issue 1 will only really benefit the worst of the worst: the criminal offenders who don’t care about treatment, about court orders, or about hurting themselves or others. Because Issue 1 significantly limits a judge’s ability to sentence (and a probation department’s ability to monitor) defendants who refuse treatment, who disobey court orders, who impermissibly contact victims, and who repeatedly fail to report.

Let me ask you this: if you were a Judge, and a defendant, who pled guilty to possessing lethal doses of heroin, said to you during his sentencing hearing: “Screw you. I’m going to ignore every single thing you order me to do. I’m also going to go buy some more drugs the second I walk out of this courtroom—maybe fentanyl this time— and I think I’ll ask my girlfriend to try it with me.” At which point you get to respond, “Despite all of that, I am constitutionally required to sentence you to probation and let you walk out of here.” And then, after he refuses to engage in treatment, stops reporting, his girlfriend dies from an overdose, and he ends up back in your court for a second drug possession charge without any remorse, you are forced to yet again put him on probation and let him walk. But hey, as proponents say, at least he’s not with the bad guys in prison, right?

Which leads me to my second point: this isn’t something that can be easily fixed. The example above is just one of hundreds if not thousands of “Hmm, I didn’t think about that scenario” when it comes to Issue 1. But constitutional amendments don’t have “take-backs”; Issue 1 isn’t legislation that can be easily repealed or amended. It’s an all or nothing kind of thing, and you better agree with 100% of it before voting yes. Otherwise stated, if you disagree with even one part of Issue 1—whether it be making drug possession offenses misdemeanors, restricting jail

and prison sentences for drug offenders, removing the threat of prison for a majority of probation violations, or allowing for early release from prison upon good behavior and program participation—you should vote no.

Which brings me to my third and final point: you are not a bad person if you vote no on Issue 1. You are also not a “bad Democrat” by acknowledging its shortfalls. Do not give in to the immediate instinct to politicize and polarize the problem, as it seems everyone does with everything nowadays. “You must fall into one of two categories,” they say. “Either you are in favor of drug treatment and rehabilitation (and vote yes) or you don’t care and want to throw everyone in prison (and vote no).” But it isn’t that simple. You can genuinely value the role of drug treatment and rehabilitation in criminal sentencing and still oppose Issue 1. How do I know? Because I’m doing it.

I don’t believe that every drug user should be sent to prison. But I do believe that sometimes addicts need to hit rock bottom (which is often jail or prison or even the *threat* of jail or prison) to get serious about their sobriety. I don’t believe all criminal offenders should be sent to prison for every minor probation violation, but I do believe that personal accountability is crucial in sentencing as well as recovery. I don’t believe that jails or prisons are ideal “rehab” facilities, but I do believe that sometimes jail or prison is the only place individuals are safe from hurting themselves or others. And while I don’t believe that our criminal justice system is flawless, I do believe that our constitution should only be amended with great caution and concern. So please, don’t let people polarize the issue by making you believe that only the close-minded and ignorant oppose the issue. It’s just not true. And it’s offensive to those of us who care deeply about our communities, the people we serve, and the work we do.

That, in a nutshell, is why I am voting no on Issue 1: because I care about the health and safety of our community. It is also why I encourage you to do the same.