

Amendment # 11 Title: Property Rights; Removal of Obsolete Provision; Criminal Statutes

Ballot Language

Removes discriminatory language related to real property rights. Removes obsolete language repealed by voters. Deletes provision that amendment of a criminal statute will not affect prosecution or penalties for a crime committed before the amendment; retains current provision allowing prosecution of a crime committed before the repeal of a criminal statute.¹

How the Amendment Reached the Ballot: Constitution Revision Commission (CRC)

What Your Vote Means: A **Yes** vote on this measure: Repeals the Alien Land Law portion of the Constitution (Never invoked since 1926) Removes wording on high-speed rail that was repealed in 2004. If an amendment makes something not a crime then those convicted when it was a crime can be released.

The James Madison Institute says 11: (1) repeals a provision that prohibits foreign-born people who are not eligible for citizenship from owning, disposing, or inheriting real property; (2) removes obsolete language regarding high-speed transportation in Florida and; (3) clarifies language regarding the repeal of a criminal statute and its prosecution.¹

A **No** vote on this measure: Leaves the constitution as is.

The James Madison Institute says 11: (1) keeps the language that prevents foreign born people who are not eligible for citizenship from owning, disposing, or inheriting real property; (2) retains the high-speed transportation language in the constitution; and (3) maintains the current language regarding criminal statutes.¹

Pro:

- The Ballotpedia site includes supporters of this bill who say it's racist because of the word *alien*; they say marijuana criminals should be released from prison; and it will save us money:
- **Melba Pearson, Deputy Director for the ACLU of Florida** said, "We support this amendment for several reasons. Number one, the language about someone who is not a citizen not being able to own or sell property is racist. It says 'an alien' and that's racist."
- Melba continues: "The second aspect is, let's say, for example, we pass a full legalization of marijuana in the state of Florida. This as a hypothetical -- that from today forward you cannot be arrested for possession of a certain amount of marijuana. But what about all the people who are now currently sitting in jail for that marijuana charge that is now legal? Shouldn't they be released from jail and have that removed from their record because this is no longer a crime? This amendment would allow that statute to apply retroactively to people who are affected."
- **Tachana Joseph, a policy analyst at the Florida Policy Institute**, wrote, "Amendment 11... would be substantial for both the state and taxpayers. With the possibility of [inmates'] sentences being reduced, the state would cut down on expenses, and those funds could be diverted into crucial re-entry and substance abuse programs that have experienced major cuts this year. ... It would have major fiscal benefits for taxpayers and unprecedented positive effects on Florida's inmate population."

[https://ballotpedia.org/Florida Amendment 11, Repeal Prohibition on Aliens%27%80%99 Property Ownership, Delete Obsolete Provision on High-Speed Rail, and Repeal of Criminal Statutes%27 Effect on Prosecution Amendment \(2018\)](https://ballotpedia.org/Florida_Amendment_11,_Repeal_Prohibition_on_Aliens%E2%80%99_Property_Ownership,_Delete_Obsolete_Provision_on_High-Speed_Rail,_and_Repeal_of_Criminal_Statutes%27_Effect_on_Prosecution_Amendment_(2018))

Pro: The James Madison Institute says about 11: This amendment organizes some outdated sections of the Florida Constitution in need of cleaning up. The obsolete language that authorizes a high-speed rail in the state unnecessarily clutters the document. Additionally, the measure removes language that restricts the property rights of certain individuals. This restriction—the Alien Land Law—has been struck down by the courts in a number of other states, and this initiative would preemptively remove the language. Perhaps most importantly, Amendment 11 deletes the language of what is known as the Savings Clause, which states that a repeal of a criminal statute does not affect the prosecution of a crime committed before the repeal.

Florida is only one of three states that still enforces the Savings Clause. Florida incarcerates at a rate far higher than the national average, and this amendment could alleviate some of those expenditures. Those in favor of repealing the language point out that amending the savings clause means restoring to the legislature a proper power that 49 other state legislatures currently have and use. Leaving the status quo means the legislature can't, under any circumstances, extend sentencing reforms to anyone who's already been convicted of a crime. That means a person who committed a crime on June 30, 2014 would spend five times as long in prison as someone who committed the same crime one day later (due to changes in mandatory minimum thresholds), and the legislature is currently powerless to do anything about it. Lastly, proponents of the repeal claim that the measure would correct some of the costs of legislative overreach found in the criminal justice system. The new policy could free up legislators to make meaningful reform.¹

Con:

The James Madison Institute says about 11: In 2000, voters approved the addition of high-speed rail to the Florida Constitution. Four years later, voters repealed the amendment, which has left the language in limbo ever since. For opponents, the issue in Amendment 11 arises due to bundling. The irrelevant language sits bundled with an unrelated issue: the Savings Clause. Those opposing the repeal of the Savings Clause would argue that there is a need for consistency in criminal sentencing and in the legal system—despite any shortcomings. Once a verdict applies to a criminal, it should not be subject to changes in the law over time. Opponents would contend that the policy change could potentially have a number of unintended consequences, should any subsequent legislative changes not address retroactivity (even though 47 of the 50 states do not have a version of the Savings Clause). The repeal of the Savings Clause could add further confusion to the obstacles standing in the way of criminal justice reform. Opponents assert that Florida incarcerates its citizens at a higher rate than its contemporaries because of the proper enforcement of the law.¹

Supporters: ACLU

Florida Policy Institute (liberal propaganda 501 c 3)

USA Today's Florida Today (Leans left)

Opponents:

Dem Prog Caucus of FL (Leftist)

Save My Constitution opposes this measure, as well as every other measure placed on the [November 2018 ballot](#) by the [Florida Constitution Revision Commission](#). The group consists of former state and federal lawmakers including Jim Kallinger (R), [Jeff Kottkamp](#) (R), [Jennifer Carroll](#) (R), [Sandy Adams](#) (R), and [Connie Mack](#) (R). The group argues that the measures are confusing and misleading and were placed on the ballot in a deceptive way by bundling multiple subjects in a single proposal.²

No Position:

League of Women Voters (LWV) (Leans left)
Christian Family Coalition (CFC) Florida

TPMs Vetter's Summary Comments:

Combining three different subjects is confusing. This vetter doesn't believe laws should apply retroactively; this amendment would do that. Moreover, the ACLU provides no numbers on how many people are incarcerated for marijuana. That data point would put their argument into perspective. This vetter is always suspicious when facts are left out of an argument.

TPM Vetter's Recommendation:

Vote **NO** on Amendment 11

Sources:

¹The James Madison Institute 2018 Florida Amendment Guide

<file:///Users/maurenguffanti/Downloads/Florida%20November%202018%20Constitutional%20Amendment%20Guide%20by%20James%20Madison%20In....pdf>

Ballotpedia:

[https://ballotpedia.org/Florida_Amendment_11,_Repeal_Prohibition_on_Aliens%E2%80%99_Property_Ownership,_Delete_Obsolete_Provision_on_High-Speed_Rail,_and_Repeal_of_Criminal_Statutes%27_Effect_on_Prosecution_Amendment_\(2018\)](https://ballotpedia.org/Florida_Amendment_11,_Repeal_Prohibition_on_Aliens%E2%80%99_Property_Ownership,_Delete_Obsolete_Provision_on_High-Speed_Rail,_and_Repeal_of_Criminal_Statutes%27_Effect_on_Prosecution_Amendment_(2018))