

35TH AMENDMENT (RC.8)

Civic Responsibility & Criminal Justice; Public Education & Restorative Rehabilitation

SECTION 1

Civic Responsibility & Culpability Capability; Prehabilitative Education & Full Citizenship

CLAUSE 1. To imbue the prerequisite understanding of the norms by which citizens are bound, and to enable the embodiment of civic responsibility through sound mind and honorable character, all citizens shall be granted the privilege of public education¹¹³ as a form of civic preparation from 18 months of age until 18 years of age.¹¹⁴

CLAUSE 2. Public education shall train all students in the necessary skills and understandings¹¹⁵ expected of and required for a strong democratic civil society,¹¹⁶ and a free and just economy.¹¹⁷

CLAUSE 3. In the furtherance of the purposes of this Section, all citizens shall have the privilege of access to continued education¹¹⁸ and mental health professionals,¹¹⁹ throughout the entirety of their life.

¹¹³ In exchange for the expectation that people follow the law, it is the law's responsibility to ensure that people understand the law and are capable of complying with it.

¹¹⁴ Education should, at a minimum, provide access to basic literacy and mathematics skills, knowledge of physical and mental health, understanding of the scientific method, and research skills in order to facilitate self-learning. Moral reasoning processes should be imbued without being influenced by substantive content, along with digital, informational, and media literacy skills which have become prerequisites to functioning and flourishing in the 21st century.

¹¹⁵ Societies have a responsibility to ensure that all members have access to education so that they can realize their full potential and participate fully in civic life. Education is critical to ensuring security at various scales in order to equip citizens to make informed decisions and navigate complex social, economic, and political landscapes. For example, education can promote security at an individual level by teaching people about personal finance and financial literacy. This can help individuals make more informed decisions about how to save and invest their money, which can lead to greater financial stability and security. At a societal level, education can help reduce crime rates by teaching young people about the consequences of criminal activity and providing them with alternatives to illegal activity. At a national level, education can promote security by preparing individuals for productive citizenship and helping them develop the skills necessary to contribute to society in positive ways. At an international level, education can promote security by preparing individuals to be global citizens and by helping them develop the skills necessary to participate in a global economy. Additionally, education can help reduce conflict by teaching people about the importance of tolerance and respect for differences.

¹¹⁶ Education should also provide opportunities, such as Americorps, for young people to develop transversal skills by working together on projects that benefit their communities and they can use throughout their lives to positively impact their community, their country, and humanity across the world. These opportunities could be a condition of graduation from secondary education.

¹¹⁷ Education is the foundation of a just economy because it provides equality of opportunity and empowers people to participate fully in the economy.

¹¹⁸ In an era of accelerating technological advancement and consequent economic disrupt, it is incumbent upon a nation to invest in providing continued education and job training programs to all citizens so that they can adapt to changing technologies and industries.

¹¹⁹ There is no true security without mental health security. Mental health insecurity can have far-reaching consequences, impacting not just individuals but also families, communities, and entire nations. When people do not have access to mental healthcare, they are more likely to experience unemployment, poverty, homelessness, and incarceration. They are also more likely at risk for chronic physical illnesses like heart disease and diabetes. Without mental health security, it is impossible to achieve true security at any scale.

CLAUSE 4. Persons who do not fulfill the civic duties associated with the privileges specified in this Section may have their full citizenship withheld until such duties are fulfilled for purposes of Amendment 34, Section 2, Clause 5.¹²⁰

CLAUSE 5. Persons seeking naturalization after 18 years of age may receive full citizenship for purposes of Amendment 34, Section 2, Clause 5 upon demonstrating the equivalent embodiment of civic responsibility,¹²¹ as intended by this Section, as designed and administered by an independent commission established by Congress and dedicated to the continuous evaluation of the evaluative process in carrying out the purpose of this Section.

SECTION 2

Criminal Justice & Restoring Integrity; Redemptive Rehabilitation & Preventing Recidivism

CLAUSE 1. To maintain the integrity of the rule of law while promoting the ideal of justice,¹²² sentencing of criminal convictions shall opt for redemptive, restitutive, and restorative rehabilitation whenever possible,¹²³ and the civic privileges specified in Amendment 34, Section 2 shall only be revoked to the extent necessary to prevent a likelihood of recidivism,¹²⁴ especially in cases of endangerment to self or others.

CLAUSE 2. Penalties that serve a deterrent purpose shall be limited to the minimum level needed to achieve their deterrent effect.¹²⁵

¹²⁰ Minors are not yet full citizens because they have not yet reached the age of majority and are therefore not able to vote or participate in other aspects of civic life. Additionally, minors generally have fewer legal rights than adults do, and are subject to different laws and regulations. There are a few justifications for this limitation. First, minors are not considered to be as capable as adults when it comes to making decisions and understanding the consequences of their actions. This is why they are not allowed to vote or enter into contracts. Second, minors are still developing physically, emotionally, and mentally, and thus need special protections. For example, they may require supervision and guidance in order to stay safe, and they may not be able to fully understand or appreciate the severity of certain legal penalties.

¹²¹ Some possible ways in which immigrant adults might demonstrate their fitness for full citizenship status could include completing a period of residency in the country, passing a citizenship test, or participating in other forms of civic engagement.

¹²² In order to achieve this balance, the central goal of criminal justice should be to ensure public safety and prevent crime. To accomplish this, the criminal justice system should focus on rehabilitation and reintegration, rather than retribution.

¹²³ There are many ways criminals can repay their debts to society, other than retribution. For example, they can perform community service or pay restitution to their victims. In order to make our communities safer and reduce the overall amount of crime, the criminal justice system should focus on preventing crime and rehabilitating criminals, rather than simply punishing them for purposes of retribution. For example, many people who are released from prison find it very difficult to find jobs and housing, which makes it more likely that they will re-offend.

¹²⁴ For example, the state already has the power to revoke driver's licenses for repeat offenders of DUI laws. This power could be applied more broadly, but only to the extent necessary to achieve the central goal of criminal justice – ensuring public safety and preventing crime.

¹²⁵ For example, many current deterrence mechanisms, such as mandatory minimum sentencing laws, strike at those whose crimes are least responsive to any deterrent effect. The best evidence we have today about serious crime in this country indicates very clearly what causes violent crime: drug abuse, economic inequality, inadequate funding for education, and public health. This clause relieves Congress of the need to respond with zealously to public outrage, for political or emotional reasons.

CLAUSE 3. Mandatory sentencing shall not be imposed by the legislature upon the judiciary, and all matters of sentencing shall be left to the discretion of the judiciary according to principles of due process to be administered according to the specifics of each case before it.¹²⁶

CLAUSE 4. First responders¹²⁷ shall be sufficiently specialized and diversified¹²⁸ to ensure a proportionate and differentiated response¹²⁹ to issues related to public safety, and to be worthy of public reverence.¹³⁰

CLAUSE 5. Rehabilitation shall be administered by a local or adjacent nongovernmental agency that specializes in rehabilitative, restorative, and transformative justice.¹³¹

CLAUSE 6. No person shall be detained or incarcerated, unless the person is charged with committing a violent crime or the person presents a substantial danger of causing physical or economic, or psychological harm to themselves or others,¹³² or presents with enough power to be deemed a significant flight risk without significant loss to self.¹³³

CLAUSE 7. The criminal justice system shall be adequately funded, staffed, trained, and sufficiently specialized and diversified for differentiated handling, to ensure the health, safety, and potential for redemption and rehabilitation amongst detained or incarcerated persons,¹³⁴ and no centers of detention shall be private entities, nor operating for-profit.¹³⁵

¹²⁶ Mandatory minimum sentencing laws violate the Constitutional separation of powers because they impose upon the discretion of an independent judiciary's ability to tailor sentences to fit the individual offender's culpability or the specific facts of the offense. They also have no demonstrated impact whatsoever on reducing or preventing others from committing crimes, and discredit the broader criminal justice system by resulting in blatantly unfair and disproportionate punishments.

¹²⁷ For example, law enforcement officers, fire fighters, ambulatory workers, and paramedics.

¹²⁸ Specialization would allow for the emergence of new first responder roles, such as social workers.

¹²⁹ This would allow first responders to more effectively respond to a variety of situations. For example, traffic law enforcement, homelessness, substance abuse, and domestic violence all require different expertise.

¹³⁰ This would also improve public confidence in law enforcement by demonstrating that their safety is being taken seriously and that those who are responsible for their safety are properly trained and prepared, and that enforcement of the law by physical force is only used as a last resort.

¹³¹ The criminal justice system is often not: (i) designed to address the needs of victims and survivors of crime; (ii) equipped to provide services that address the root causes of crime, such as poverty or substance abuse; (iii) responsive to the diverse needs of diverse communities, which are divergently impacted by crime; and (iv) transparent or accountable to the public.

¹³² For example, domestic violence, stock market manipulation and online harassment are all forms of harm that the criminal justice system is responsible for preventing between arrest and conviction. However, detention or incarceration is a very serious deprivation of liberty. It deprives people of their fundamental right to freedom and autonomy. Therefore, it should only be used as a last resort, when there is no other way to protect the community from harm. Additionally, we should remember that many people who are charged with crimes are innocent until proven guilty, and that bail is often set at an unrealistically high amount, which means that even if someone is innocent, they may still be unable to afford bail and be forced to remain in detention which may cause them to lose their job or home while awaiting trial – which can cause great injustice.

¹³³ For example, white-collar criminals may present a greater flight risk while awaiting trial if they are facing lengthy prison sentences and have the financial resources to flee.

¹³⁴ If the law restricts and individual's liberties via incarceration, then it is the law's responsibilities to ensure other rights are protected – including, but not limited to, physical and mental health, and the ability to reintegrate with society upon release.

¹³⁵ Private prisons often put profit above safety and rehabilitation, which can lead to substandard conditions for prisoners. Additionally, they can create an incentive to keep people incarcerated longer than necessary in order to maximize profits. They are also often less transparent than public prisons, making it more difficult to hold them accountable for abuses.