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Out Of Many, One

# Removing the Exception to Slavery from a State Constitution: A Toolkit

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# Background

The 13th Amendment of the United States Constitution states:

*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.*

The phrase “except as a punishment for crime whereof the party should have been duly convicted” is called “the exception clause.” It legally allows slavery and involuntary servitude as a punishment for a crime.



## The Opportunity

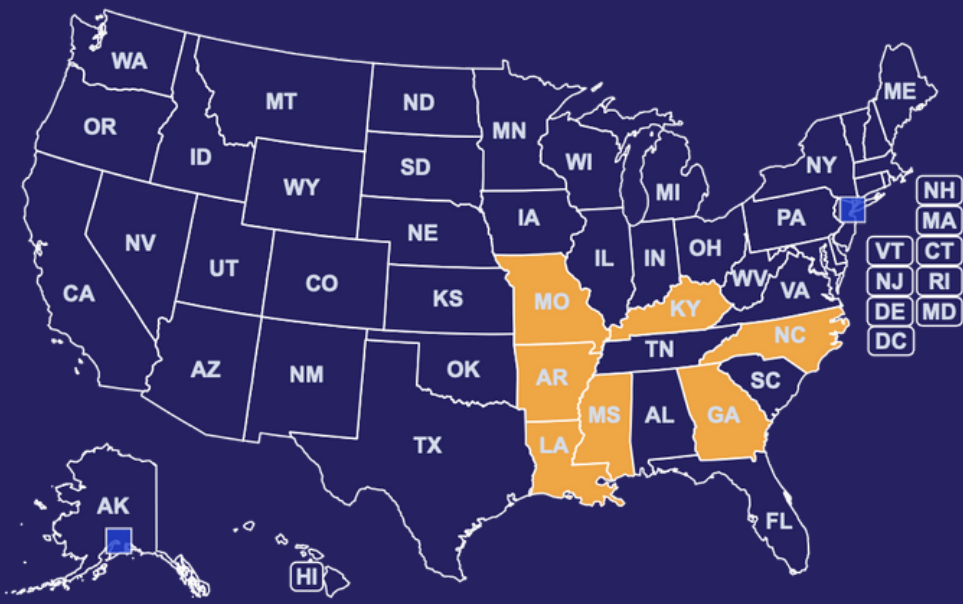
After the 13th Amendment was ratified, many Southern states adopted the exception clause into their state constitutions. This led to new forms of modern slavery and indentured servitude.

However, any state can update its constitution to remove slavery exception language. This eliminates constitutional permissions for modern-day slavery and indentured servitude.

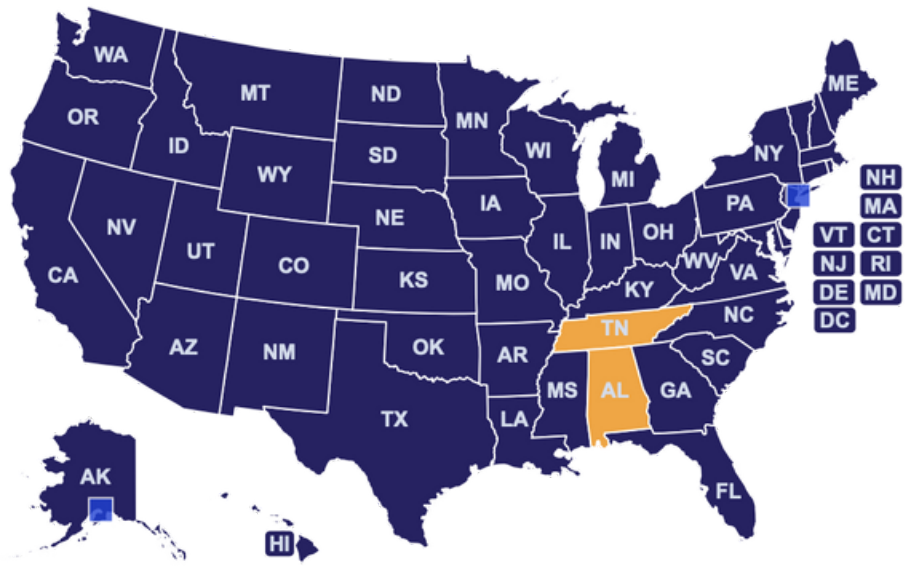




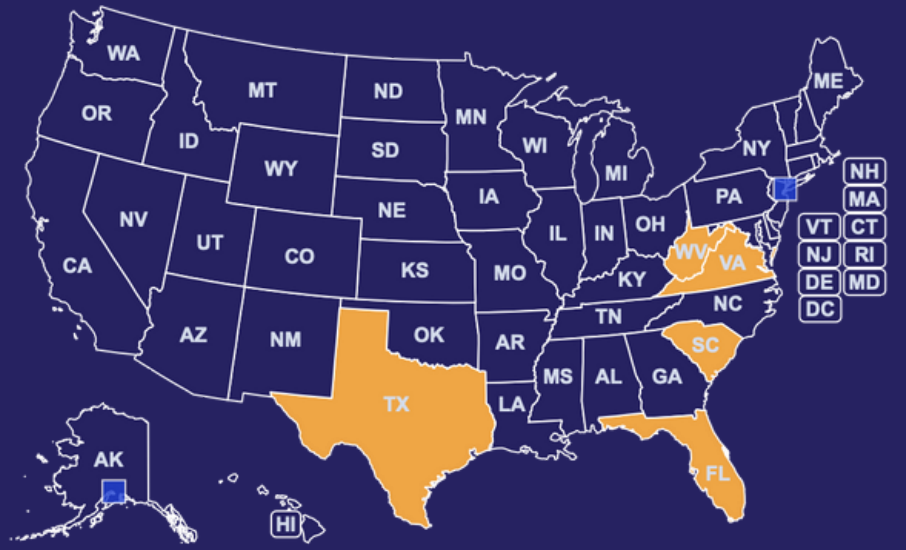
# Southern State Constitutions That Include Slavery Exception Language



# Southern State Constitutions That Have Removed Slavery Exception Language



# Southern State Constitutions That Neither Ban nor Permit Slavery





# Drafting Legislation to Remove the Slavery Exception in Your State: The Process

01

## Learn Your State's Amendment Rules

To eliminate the slavery exception language, you need to pass an amendment to your state's Constitution. Each state has its own process to pass an amendment.

02

## Identify Your Amendment Sponsors

Passing a state constitutional amendment requires sponsors.

03

## Build Your Allies

You'll need the support of the right sponsors and key state agencies to pass the amendment through the legislature.

04

## Craft Clear & Simple Amendment Language

The specific words you select for your amendment will impact your ability to change your state's Constitution and the stakeholders you can create.

05

## Conduct Public Awareness Campaigns

You'll want to identify effective messaging to reach your different stakeholders and partners.



# Step One: Learn Your State's Amendment Rules

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To eliminate your state's slavery exception language, you need to pass an amendment to your state's Constitution. Each state has its own process to pass an amendment.

## Questions to consider:

1. What is your state's process for amending its Constitution?
2. Does the amendment process involve multiple votes over multiple sessions or years?
3. If so, what is the threshold for passage of each vote?
4. Is it possible to pass the legislation and have the amendment appear on the ballot in the same year?
5. Once the amendment is on the ballot, what percentage of votes is needed for passage?
6. What is a realistic timeline if every legislative vote goes your way?
7. What is your contingency plan for resolving issues and keeping the bill on track?

# Step Two: Identify Your Amendment Sponsors

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Passing a state constitutional amendment requires sponsors. Technically, many legislators can be your sponsor. However, identifying the *right* sponsor for your bill is critical.

Finding the best sponsor is not about choosing from a particular side of the aisle. You want someone who can focus on this bill. You want someone who can see it through, even when passing your legislation takes years – and you should expect that it could take years.

## Questions to consider:

- 1. If every vote goes well, how long would it take to pass the bill?** That will be your baseline timeline.
  - a. For example, in Tennessee, you must introduce the bill, pass two votes in two separate General Sessions (which is a total of 4 years, 2 years per General Session). Then the amendment appears on the next gubernatorial ballot.
- 2. Who is the best person to sponsor this bill?**
  - a. Who has the tenacity to see this through?
  - b. Who will be the most vocal supporter?
- 3. Who is in a safe district who can be reelected?** If a legislator is elected every two years but it takes four years to pass the bill, the sponsor will be up for re-election before the bill passes. It may be better to find a sponsor who represents a safe district.
- 4. Are they invested?** It takes work to pass an amendment, regardless of supermajorities. You want to find someone who will be accountable and invested in shepherding along the bill.
- 5. Do they have a leadership role?** Finding a Sponsor or Co-Sponsor who is a Chair or Vice Chair of the committee(s) the legislation is assigned to is a great way to move a bill through committees.
- 6. Are they well connected?** Most Southern states have Republican supermajorities. It's helpful to have colleagues across the aisle if you are in the minority party.
- 7. Are they a lightning rod?** While fiery passion can inspire one side, it can distance potential colleagues and voters on the other side of the aisle.



# Step Three: Build Your Allies

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You'll need support from sponsors and key state agencies to pass the amendment through the legislature. It is also important to understand the concerns of your potential opponents and turn them into allies. Reducing the number or strength of groups lobbying against the bills will help ensure legislators feel comfortable passing the bill.

Here are some key groups who could become potential allies to pass your bill:

- National business community (Fortune 500 companies)
- Local business community members & chambers of commerce
- Faith communities
- Justice communities

## Questions to consider:

1. What companies in your state are required to have Modern Day Slavery Statements?
2. What additional companies might support removing the slavery exception from the state constitution?
3. What business leaders should you bring to the table? For example: Chambers of Commerce, CEOs, and economic development officials
4. How might a company or business leader benefit by publicly supporting the effort to remove slavery from your state's constitution?
5. How does removing slavery from your state's constitution align with each faith community's mission statement and teachings?
6. How are faith communities in your state addressing the legacy of slavery and racism?
7. What faith leaders should you engage?





# Step Four: Craft Clear & Simple Amendment Language

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*“Slavery and involuntary servitude are forever prohibited. Nothing in this section shall prohibit an inmate from working when the inmate has been duly convicted of a crime.”*

- Amendment 3, Tennessee Constitution

Using clear, simple language is a key reason Tennessee was able to change its state constitution. Two other states failed to create clear amendment language to remove slavery from their state constitutions.

In California, the conversation broadened from simply removing slavery from their constitution to prison wage issues. Ultimately, the shift caused a \$1.5 billion fiscal note to be attached to the measure, which led to its broad bipartisan defeat.

In Louisiana, the original ballot language was ambiguous and confusing. According to the amendment sponsor, the language could lead to differing legal opinions, and might explicitly allow involuntary servitude as part of the lawful administration of criminal justice. Ultimately, the sponsor withdrew his support and joined the bipartisan effort to defeat the ballot referendum.

The amendment sponsor reintroduced the amendment in the 2023 Legislative session but that measure failed to pass in the Senate.

## **Questions to consider:**

1. Is your amendment focused *only* on removing your state's exception clause?
2. How might the language impact other issues such as prison wages and work programs?
3. Is there anything in the amendment as introduced that would generate a fiscal note?
4. Will voters understand what the amendment does and does not do?



# Step Five: Public Awareness Campaigns

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You'll need to create public awareness campaigns to pass the amendment. These campaigns should speak to different voters and voting blocs. They should also anticipate and answer questions that people may have or opposition might raise.

## Questions to consider:

1. How would the passage or failure impact the bottom line of the business community?
2. How might the passage or failure impact the public's perception of your state?
3. How might a company benefit by publicly supporting the effort to remove slavery from your state's constitution? Does your messaging have broad bipartisan appeal?
4. Does your messaging create common ground for all parties involved?
5. How does removing slavery from your state's constitution align with each faith community's mission statement and teachings?

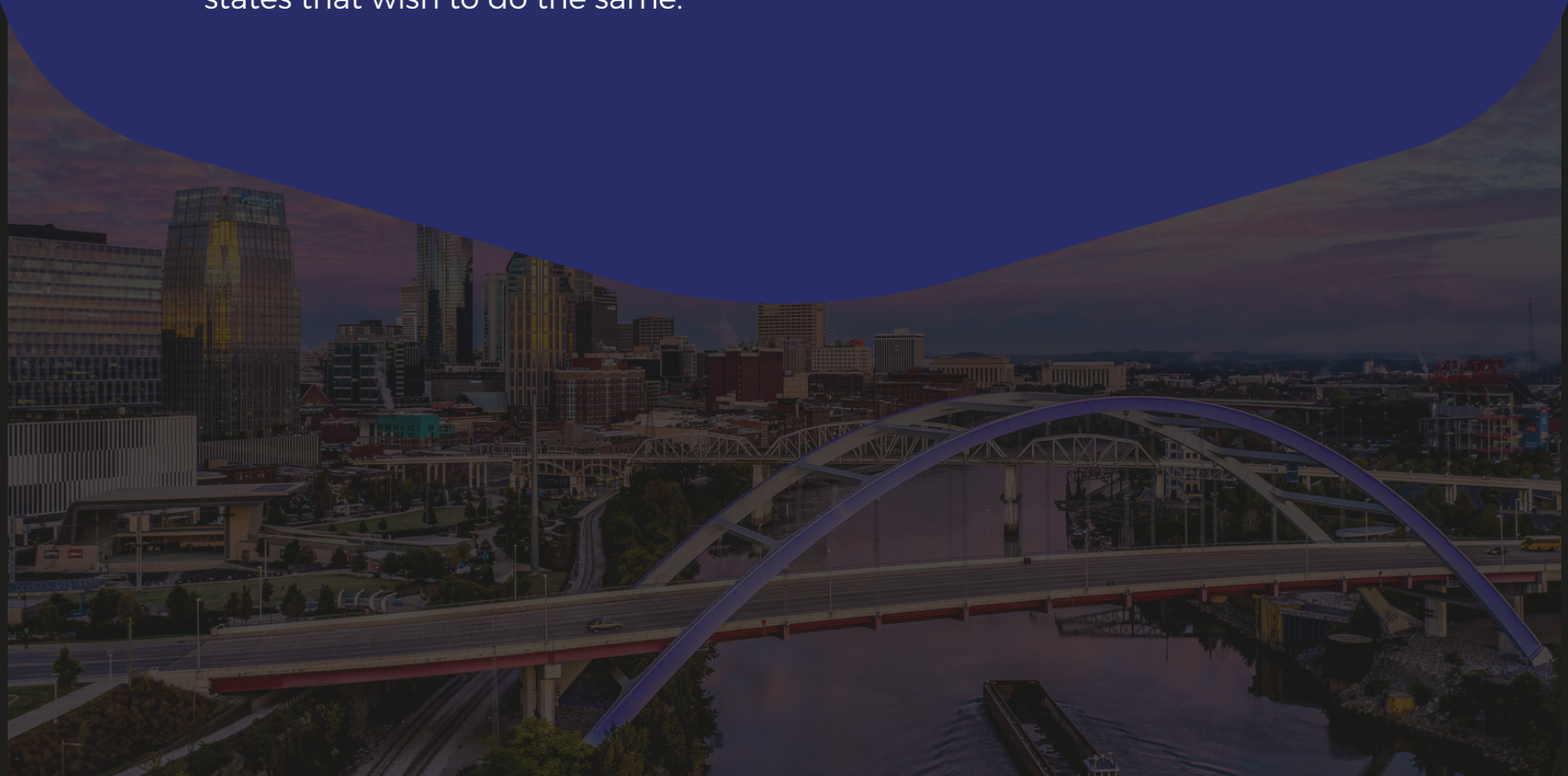


# CASE STUDY

## Tennessee Bans Slavery From The State Constitution

On November 8, 2022, Tennessee became the first Southern state to ban slavery from the state constitution.

Tennessee's campaign took six years and brought together one of the most bipartisan coalitions in state history. This case study distills valuable lessons the bipartisan Tennessee campaign can offer other Southern states that wish to do the same.



## Step One: Know Your State's Amendment Rules

In Tennessee, the sponsor needed to introduce the legislation. Next, the legislature had to pass the bill twice.

The first time, it had to pass by a 50% vote. The second time, it had to pass by a 75% vote. Then, it went to a ballot for public consideration. However, the ballot had to happen in a gubernatorial year.

## Step Two: Identify Your Amendment Sponsors

In Tennessee, you must introduce the bill and pass two votes in two separate General Sessions (which is a total of 4 years, 2 years per General Session), before the amendment appears on the next gubernatorial ballot.

## Step Three: Build Your Allies

Tennessee's work to remove the slavery exception clause illustrates how important it is to have the support of the right sponsors and key state agencies. Building allies and understanding opponents' concerns helped Tennessee leaders to pass the amendment through the legislature.

### Business Community

Tennessee is home to several Fortune 500 companies with Modern Day Slavery statements, including Bridgestone, AT&T, and Jack Daniels. Each of these companies must address modern-day slavery within their operations and supply chains. These companies supported Tennessee's efforts to remove the exception clause to showcase their commitment to ending modern-day slavery.

In addition, the bill sponsors built a relationship with lobbyists and chambers of commerce. Businesses in Tennessee rallied around eliminating the exception clause that allows for modern-day slavery. The Nashville Chamber of Commerce played a central role.

### Faith Leaders

Tennessee built a broad coalition of faith leaders throughout the process of getting the amendment to the ballot.

### Make Allies from Potential Opposition

Initially, several legislators and the Tennessee Department of Corrections (TDOC) were concerned the amendment might disrupt or shut down prison work programs. The bill Sponsors worked closely with all parties to address their concerns and strengthen legislative support for the amendment.

## Step Four: Clear and Simple Amendment Language

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Article 1, Section 33 of Tennessee's Constitution used to read, "That slavery and involuntary servitude, *except as punishment for crime, whereof the party shall have been duly convicted*, are forever prohibited in this state."

Here is the language Amendment 3 proposed: "Slavery and involuntary servitude are forever prohibited. Nothing in this section shall prohibit an inmate from working when the inmate has been duly convicted of a crime."

Amendment 3's goal was simple and focused: remove the exception clause (above italicized). Doing so would prohibit slavery and involuntary servitude in Tennessee.

The first sentence accomplishes the goal. "Slavery and involuntary servitude are forever prohibited." It was simple, direct, and clear.

The second sentence of the amendment language addresses a key question legislators and voters raised: would such an amendment nullify prison work programs? If yes, the Tennessee Department of Correction (TDOC) would oppose it. Prison work programs are core to TDOC's function.

Amendment sponsors met with the TDOC legislative liaison to craft a second sentence that clarified that incarcerated individuals would still be able to work. This addressed TDOC's concerns about future confusion. It also allowed them to support the bill.

Later, when legislators or voters attempted to introduce additional issues, such as prison minimum wage, bill sponsors could point to the clear language and focused scope: slavery and involuntary servitude. It's not that the other issues weren't important. But they were outside the scope of Amendment 3.



## Step Five: Conduct Public Awareness Campaigns

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Here is how Tennessee sponsors shaped their language to reach out to and hear from different constituencies:

**Political:** *“This is not about right or left, it’s about right or wrong. Democrats and Republicans can all agree slavery should have no place in the State Constitution, in America, or anywhere. This is doing the right thing. The state constitution is a moral document, and it should not be used to protect slavery in any form, including modern-day slavery and sex trafficking.”*

**Business:** *“In business, words matter. The business community values the importance of being a welcoming and inclusive place for businesses to operate. Customers value the brands they use, and many companies are at the forefront of the fight against modern-day slavery and sex trafficking. State-level campaigns provide great opportunities for companies to showcase their commitment to ending slavery around the world.”*

**Faith:** *“Tennessee’s faith organizing strategy included the following statement signed by more than 300 faith leaders: All people are created in the image of God. We are commanded to love one another as God loves us. God desires us to break down barriers and celebrate community and no person should ever be owned by another person. The state constitution is more than an instrument of law – it is a moral document that reflects our values as a people. We have the chance to create a better and more moral document to guide us all.”*

# LESSONS LEARNED

1. Identify leadership in key state agencies and departments and gain their support early.
2. Keep your resolution's language focused solely on removing the slavery exception.
3. Bring members and leaders of both parties together around the common goal of removing the exception language. The passage of this amendment should result in a win for both sides.
4. Ensure the fiscal note is neutral or contains only the cost of placing the question on the ballot. Removing the exception language should come at no cost to taxpayers.
5. Remain focused: This is not about prison reform, living wages, or eliminating prison work programs.



# WHAT COMES NEXT?

Would you like help trying this in your state? EPU is here to support you.

We offer free resources to community leaders, policymakers, and advocates to support actionable steps to accelerate positive change.

EPU resources include but are not limited to:

- Research and analysis
- Technical assistance
- Policy development, and other resources
- Advising sessions with Senior Policy Advisors

You do not have to figure out how to change policy on your own.

Email [policy@unumfund.org](mailto:policy@unumfund.org) to start the conversation.