

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Lori Gimelshteyn and Erin Lee
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 29, 2023
SUBJECT: Proposed Initiative Measure 2023-2024 #114, concerning Parental Rights and Responsibilities

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

An earlier version of this proposed initiative, proposed initiative 2023-2024 #102, was the subject of a memorandum dated December 4, 2023, which was discussed at a public meeting on December 6, 2023. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purpose

The major purpose of the proposed amendment to the Colorado constitution appears to be to enshrine the fundamental right of a parent to nurture and make decisions to direct the upbringing and education of the parent's child and to prohibit the government from denying, impeding, or discriminating against the exercise of that right.

Substantive Comments and Questions

1. The amending clause in Section 2 of the proposed initiative states the proposed initiative intends to amend article II, section 3 of the Colorado constitution. The proposed language only includes the new language to be added and not the current language found in article II, section 3 of the Colorado constitution. Is it the proponents' intent to repeal the current language in article II, section 3 or to add language to the current section?
2. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
3. What is the effective date of the proposed initiative?
4. Section 2 of the proposed initiative states that "The right of a parent to nurture and to make decisions to direct the upbringing and education of their child is hereby recognized." What is the effect of recognizing the right?
5. In Section 2 of the proposed initiative, it states "THE Government shall not deny..." Did the proponents purposely use all capitals for "the." If no, only capitalize the first letter. If yes, what is the proponents intent in using all capitals for "the"?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. The command to either "amend," "add," or "repeal" in the amending clause should be **bolded**. For example:

SECTION 2. In the constitution of the state of Colorado, **amend** section 3 of article II as follows:

2. The word “Section” at the beginning of each amending clause should be capitalized. For example:

SECTION 1. Legislative declaration.

SECTION 2. In the constitution of the state of Colorado, **amend** section 3 of article II as follows:

3. Nonstatutory legislative declarations are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

Legislative Declaration. (1) Subsection.

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

4. If the proposed initiative is to be added to a section within an existing article of the Colorado constitution, it should include a section number and headnote. For example, article II, section 3 of the Colorado constitution appears as follows:

Section 3. Inalienable rights. All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.