

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Dusti Gurule and Dani Newsum
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: September 29, 2023
SUBJECT: Proposed initiative measure 2023-2024 #89, concerning the right to abortion

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 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.

Purposes

The major purposes of the proposed amendment to the Colorado constitution appear to be:

1. To ensure the right to abortion;
2. To allow abortion to be a covered service under health insurance; and
3. To allow public funding for abortion.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado." To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
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. Article V, section 1 (4)(a) of the Colorado constitution states that all approved ballot measures shall take effect on the day of the proclamation by the governor. Is this the intended effective date of the initiative? If not, what is the intended effective date?
4. Section 1 of the proposed initiative is a legislative declaration, but there is no indication whether it is intended to be part of the new section 32 to article II of the Colorado constitution or if it is intended to be non-statutory. If it is part of the new section 32, it needs be included in that section. If it is intended to be non-statutory, then the language is shown in regular type not small capital letters.
5. What does it mean to recognize the right of abortion?
6. What entities are covered by the term "government"? Would the proponents consider defining "government"?
7. Sections 10-16-104 (26)(d)(II); 25-20.5-503 (2)(a); 25.5-3-106 (8) and (9); 25.5-4-412 (1); 25.5-4-415 (1), (8), and (9); and 25.5-5-103 (2) refer to section 50 of article V of the Colorado constitution. What will be the effect of those sections if the proposed initiative is adopted?

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. Use semicolons at the end of paragraphs in the legislative declaration, unless the paragraph contains more than one sentence. In paragraphs that contain more than one sentence, use a period at the end of each sentence.
2. Although the text of the proposed initiative should be in small capital letters, use a large capital letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.

3. The "finds and declares" clause and the "therefore, finds" clause in the legislative declaration should be numbered as separate subsections. For example:

"Section 1. Legislative declaration. (1) WE, THE VOTERS OF THE STATE OF COLORADO, HEREBY FIND AND DECLARE THAT . . .

(2) THEREFORE, THE VOTERS OF THE STATE OF COLORADO FIND THAT . . ."

4. References to case names should include the full case citation. For example:

The case reference to "*Roe v. Wade*" should read: "*Roe v. Wade*, 410 U.S. 113 (1973)."

5. A proposal to amend the state constitution should specify the article and section to be modified or added. When amending a constitutional section, the "**amend**" or "**add**" instruction precedes the provision number. For example:

"In the constitution of the state of Colorado, **add** section 32 to article II as follows:"

6. If an entire section or other subdivision is deleted by a proposed measure, a "repealer clause" may be used instead of an amending clause. The repealer clause may simply refer to the deleted provision, or the repealed language may be shown in strike type. For example:

"In the constitution of the state of Colorado, **repeal** section 50 of article V."

or

"In the constitution of the state of Colorado, **repeal** section 50 of article V as follows:

Section 50. PUBLIC FUNDING OF ABORTION FORBIDDEN. ~~No public funds shall be used by the State of Colorado, its agencies or political subdivisions to pay or otherwise reimburse, either directly or indirectly, any person, agency or facility for the performance of any induced abortion, PROVIDED HOWEVER, that the General Assembly, by specific bill, may authorize and appropriate funds to be used for those medical services necessary to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort is made to preserve the life of each."~~