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Colorado General Assembly

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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: January 19, 2026

Subject: Proposed initiative measure #215, concerning theft, forgery, and motor vehicle theft

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council Staff and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Legislative Council Staff and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Earlier versions of these proposed initiatives, proposed initiatives **2025-2026 #33** and **2025-2026 #88**, submitted by the same designated representatives, were the subject of memoranda dated February 24, 2025, and May 6, 2025, respectively, and were discussed at public meetings on February 28, 2025, and May 9, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in earlier memoranda or at earlier meetings, except as necessary to fully understand the

issues raised by the revised proposed initiatives. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum.

Purposes

The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be to:

1. Increase the penalty for theft involving less than three hundred dollars;
2. Increase the penalty for theft when the person has previous theft convictions;
3. Impose a mandatory minimum sentence for certain theft convictions;
4. Increase the theft penalty when the defendant acts in conspiracy or concert in the commission of the theft;
5. Permit a municipality to establish penalties for theft under a municipal ordinance that are greater than the maximum penalty imposed by state law for a similar or identical offense;
6. Clarify the value of a theft when the thing involved is a gift card;
7. Include as means to commit forgery when a person, with intent to defraud, falsely makes, completes, alters, or utters a written instrument, that is or purports to be a gift card;
8. Eliminate the one-thousand-dollar property damage threshold in the element of causing property damage to the vehicle in motor vehicle theft in the second degree;
9. Impose mandatory minimum periods of imprisonment for motor vehicle theft convictions and unauthorized use of a motor vehicle convictions, including minimum sentences without eligibility for parole, early release, or alternative sentencing if the defendant has been previously convicted for motor vehicle theft or unauthorized use of a motor vehicle; and

10. Impose an additional term of imprisonment if a person acts in concert with another person to take or destroy property during the commission of motor vehicle theft.

Substantive Comments and Questions

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

1. 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?
2. The Colorado Supreme Court recently held that the establishment of penalties for low-level criminal conduct is a matter of mixed statewide and local concern and that when state offenses and municipal offenses prohibit identical conduct, the maximum sentencing caps in state law preempt any municipal penalties that exceed those caps.¹ Is the intended result of adding section 18-4-401 (11)(b) in the proposed initiative that the maximum sentencing caps for theft in state law do not preempt municipal penalties for theft?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public meeting only if the designated representatives 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 follows:

1. When amending a subdivision in a section, the amending clause uses the complete subdivision citation to indicate what is being amended in a section; the various subdivisions are not separated. For example:

SECTION 2. In Colorado Revised Statutes, 18-5-102, **add** (1)(i) as follows:

2. Subparagraphs are expressed using roman numerals. In section 18-4-401 (16)(b) of the proposed initiative, please capitalize subparagraph numbers (I), (II), and (III).

¹ *People v. Camp*, 2025 CO 64.