Amendment A
Prohibit Slavery and Involuntary Servitude in All Circumstances

Amendment A proposes amending the Colorado Constitution to:

♦ remove language that currently allows slavery and involuntary servitude to be used as punishment for the conviction of a crime.

Summary and Analysis

Definitions. "Slavery," as defined by Black’s Law Dictionary, is a situation in which one person has absolute power over the life, fortune, and liberty of another person. The U.S. Supreme Court has defined "involuntary servitude" as a condition of servitude in which one person is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

U.S. and Colorado Constitutions. The 13th Amendment to the U.S. Constitution prohibits slavery and involuntary servitude, except as punishment for a crime for which a person has been convicted. The Supreme Court has ruled that the 13th Amendment’s prohibition of involuntary servitude does not prohibit a state from requiring a person to fulfill duties that the person owes to the state. The amendment gives the U.S. Congress the power to enforce the amendment through legislation.

Article II, Section 26 of the Colorado Constitution also prohibits slavery and involuntary servitude, except as punishment for a crime for which a person has been convicted. Amendment A removes this exception, clarifying that slavery and involuntary servitude are prohibited in all circumstances.

Offender work programs in the criminal justice system. The courts have ruled that work requirements resulting from a conviction of a crime are allowable under the current provisions of the U.S. and Colorado Constitutions. Offender work requirements used in the Colorado criminal justice system may take the following forms:

• Prison work programs. All eligible offenders are expected to work unless assigned to an approved education or training program. Offenders are not required to work, but those who refuse to participate may face a reduction in or loss of privileges or a delayed parole eligibility date.

• Community service. A judge may sentence certain offenders to work a specific number of hours providing community service. These programs emphasize individual restitution for offenses through contributions to the community. In some cases, community service is a condition of probation.

• Probation. The courts require that an offender sentenced to probation maintain suitable employment and/or pursue employment-related education or vocational training.
For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2018, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html

Argument For

1) The section of the Colorado Constitution that allows slavery and involuntary servitude as punishment for a crime should be updated because it represents a time when not all people were seen as human beings or treated with dignity. Removing the language explicitly prohibits slavery and involuntary servitude in all circumstances and reflects Colorado’s commitment to equality and just treatment.

Argument Against

1) Slavery and involuntary servitude are already illegal. Therefore, the measure can be viewed as making a change to the Colorado Constitution that is merely symbolic. Under another view, removing the language in the constitution could have the unintended consequence of raising legal uncertainty around current offender work requirements until legal precedent is established.

Estimate of Fiscal Impact

The measure may minimally impact state and local government revenue, costs, and workload if court filings increase due to offenders filing additional lawsuits.
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1 **Argument For**

1) The section of the Colorado Constitution that allows slavery and involuntary servitude as punishment for a crime should be updated because it represents a time when not all people were seen as human beings or treated with dignity. Removing the language explicitly prohibits slavery and involuntary servitude in all circumstances, and reflects Colorado’s commitment to equality and just treatment.

2 **Argument Against**

1) Slavery and involuntary servitude are already illegal in all instances. Therefore, the measure can be viewed as making a change to the Colorado Constitution that is merely symbolic and unnecessary. Under another view, removing the language in the constitution could have the unintended consequence of raising legal uncertainty around current offender work requirements until legal precedent is established.

3 **Estimate of Fiscal Impact**

The measure may minimally impact state and local government revenue, costs, and workload if court filings increase due to offenders filing additional lawsuits.
Amendment A
Prohibit Slavery and Involuntary Servitude in All Circumstances

Kamau Allen, representing Abolish Slavery Colorado:

Good morning. We would like to submit the following revisions:

1. Line 2-3 of the blue book language reads: remove language that currently allows slavery and involuntary servitude to be used as punishment for the conviction of a crime. We propose striking “for the conviction of a crime” and replacing the language with “in all circumstances.” So instead the language will read: “remove language that currently allows slavery and involuntary servitude to be used as punishment in all circumstances.”

2. In the argument for Amendment A, we propose adding the following sentence at the end of the current paragraph – “Twenty-five other state constitutions either have an unqualified slavery ban or omit reference to slavery altogether.”

3. In the argument against Amendment A, we propose striking the below sentence: “Slavery and involuntary servitude are already illegal in all instances. Therefore, the measure can be viewed as making a change to the Colorado Constitution that is merely symbolic.” and unnecessary. Under another view, removing the language in the constitution could have the unintended consequence of raising legal uncertainty around current offender work requirements until legal precedent is established.

Douglas Bruce, representing himself:

"A" is not "symbolic" or a mere "update" but a legal change. "A" doesn't try to rewrite history, but to change the future.

The argument "against" is speculative and not credible. Slavery is NOT now banned "in all instances" because section 26 now says "except." It WILL have impact, so drop that dismissive claim.

Fiscal note: Saying case filings will increase revenue is nonsensical; singling out Denver is bizarre. Simply say "none" or "unknown."

Arguments for--allow at least three per side, since it was narrowly defeated

1. This 142-year-old language is obsolete and contradicts modern criminal reform goals. Breaking rocks in chain gangs won't rehabilitate inmates. A positive alternative of earning a small sum, like $5 per hour, can pay amends to their victims, save money for their release, and instill pride in the work ethic. Over 95% will return to society; treating them like subhuman beasts of burden demeans society and their captors. The current system is not working; we need to be smarter and honor our basic values.

2. The lure of "free labor" encourages exploiting life’s "losers" by renting them for manual labor and denying them the "fruits of their labor."
3. Our yearly state prison system alone costs c. $900 million for c. 20,000 inmates, or about $45,000 per inmate. Inmate labor can't repay those costs. Working drug addicts for years without medical treatment is inhumane. Forced labor of those who made bad choices is naive. If prison hasn't changed them, increasing their sentences to compel pointless unskilled work won't either. It will simply make them worse on release.

4. Most inmates work to avoid boredom. Some may want to learn vocational skills. Labor exploitation of the sick or mentally ill is immoral.

5. A true ban on slavery won't affect those who accept work conditions of probation to avoid prison. We should not be "slave owners" under this legal loophole. We fought a bloody civil war that ended that evil practice and expanded legal rights for all. This stain on our constitution should end.

Douglas Bruce  
(719) 550-0010

Anthony Suggs, representing Abolish Slavery Colorado:

Good Morning – Thank you for all of your work putting together the Blue Book Language. We can only imagine the time and effort that goes into writing each Blue Book and we are deeply appreciative of that work. Below are a few additional comments our organization has about the second draft of the Amendment A (Prohibit Slavery and Involuntary Servitude in all Circumstances) Blue Book Language.

First, lines 2-3 of the blue book language reads: remove language that currently allows slavery and involuntary servitude to be used as punishment for the conviction of a crime. We propose striking “for the conviction of a crime” and replacing the language with “in all circumstances.” So instead the language would read: “remove language that currently allows slavery and involuntary servitude to be used as punishment in all circumstances.” We propose this change because we believe the language should be consistent throughout the blue book. This language change would ensure the language matches the title, the language on lines 19-20 of page one and the language on lines 5-6 on page two.

Second, in the argument for Amendment A, we propose adding the following sentence at the end of the current paragraph – “Twenty-five other state constitutions either have an unqualified slavery ban or omit reference to slavery altogether.” So instead the language would read: “The section of the Colorado Constitution that allows slavery and involuntary servitude as punishment for a crime should be updated because it represents a time when not all people were seen as human beings or treated with dignity. Removing the language explicitly prohibits slavery and involuntary servitude in all 5 circumstances, and reflects Colorado’s commitment to equality and just treatment. Twenty-five other state constitutions either have an unqualified slavery ban or omit reference to slavery altogether.” We propose this addition in language because we believe it is important to highlight that many other states either have no reference of slavery or involuntary servitude in their constitution.
Third, in the argument against Amendment A, we propose striking the below sentence: “Slavery and involuntary servitude are already illegal in all instances. Therefore, the measure can be viewed as making a change to the Colorado Constitution that is merely symbolic.” and unnecessary. Under another view, removing the language in the constitution could have the unintended consequence of raising legal uncertainty around current offender work requirements until legal precedent is established. We propose this change because based on the definition of “involuntary servitude” in definitions which defines it as, “which one person is forced to work for another person by the use of physical restraint or physical injury, or by the threat of coercion through law or the legal process.” This definition does not match the process in which people end up participating in offender work programs so we don’t believe the two issues should be correlated.

Please don’t hesitate to reach out if you have any questions and thank you for your consideration.

Peace,
Anthony Suggs
Legislative Subcommittee Chair
Abolish Slavery Colorado
Amendment A
Prohibit Slavery and Involuntary Servitude in All Circumstances
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Amendment A
No Exception to Involuntary Servitude Prohibition

Ballot Title: Shall there be an amendment to the Colorado constitution that prohibits slavery and involuntary servitude as punishment for a crime and thereby prohibits slavery and involuntary servitude in all circumstances?

WHEREAS, The Colorado constitution has prohibited involuntary servitude, which is the coerced service of one individual for the benefit of another, since 1877; and

WHEREAS, That prohibition has, by its express terms, never been applied when involuntary servitude is imposed upon an individual as punishment for a crime for which the individual has been duly convicted; and

WHEREAS, The state should not have the power to compel individuals to labor against their will; and

WHEREAS, The state recognizes that allowing individuals convicted of a crime to perform work incident to such convictions, including labor at penal institutions or pursuant to work-release programs, assists in such individuals' rehabilitations, teaches practical and interpersonal skills that may be useful upon their reintegration with society, and contributes to healthier and safer penal environments; and

WHEREAS, Because work provides myriad individual and collective benefits, the purpose of this proposed constitutional amendment is not to withdraw legitimate opportunities to work for individuals who have been convicted of a crime, but instead to merely prohibit compulsory labor from such individuals; now, therefore,

Be It Resolved by the House of Representatives of the Seventy-first General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the election held on November 6, 2018, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, amend section 26 of article II as follows:

Section 26. Slavery prohibited. There shall never be in this state either slavery or involuntary servitude. except as a punishment for crime, whereof the party shall have been duly convicted.

SECTION 2. Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado constitution that prohibits slavery and involuntary servitude as punishment for a crime and thereby prohibits slavery and involuntary servitude in all circumstances?"

SECTION 3. Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if at least fifty-five percent of the electors voting on the ballot title vote "Yes/For", then the amendment will become part of the state constitution.