

## Amendment A Prohibit Slavery and Involuntary Servitude in All Circumstances

1 **Amendment A proposes amending the Colorado Constitution to:**

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

### 4 **Summary and Analysis**

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

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

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

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

- 25    • *Prison work programs.* All eligible offenders are expected to work unless  
26    assigned to an approved education or training program. Offenders are not  
27    required to work, but those who refuse to participate may face a reduction in or  
28    loss of privileges or a delayed parole eligibility date.
- 29    • *Community service.* A judge may sentence certain offenders to work a specific  
30    number of hours providing community service. These programs emphasize  
31    individual restitution for offenses through contributions to the community. In  
32    some cases, community service is a condition of probation.
- 33    • *Probation.* The courts require that an offender sentenced to probation maintain  
34    suitable employment and/or pursue employment-related education or vocational  
35    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>

## 1 **Argument For**

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

## 7 **Argument Against**

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

## 13 **Estimate of Fiscal Impact**

- 14 The measure may minimally impact state and local government revenue, costs, and  
15 workload if court filings increase due to offenders filing additional lawsuits.

# Last Draft as Mailed to Interested Parties

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## 1 **Argument For**

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3       servitude as punishment for a crime should be updated because it represents a  
4       time when not all people were seen as human beings or treated with dignity.  
5       Removing the language explicitly prohibits slavery and involuntary servitude in all  
6       circumstances, and reflects Colorado's commitment to equality and just treatment.

## 7 **Argument Against**

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

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- 15       The measure may minimally impact state and local government revenue, costs, and  
16      workload if court filings increase due to offenders filing additional lawsuits.

# Last Draft Comments from Interested Parties

## 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."

# Last Draft Comments from Interested Parties

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 through out 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.

## Last Draft Comments from Interested Parties

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**

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

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

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

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

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

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

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

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

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

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

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

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