

Amendment A
No Exception to Involuntary Servitude Prohibition

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. The Supreme Court has ruled that the term involuntary servitude is not
11 intended to prohibit the enforcement of duties that an individual owes to the state.

12 **U.S. and Colorado Constitutions.** The 13th Amendment to the U.S. Constitution
13 was passed in 1865 to prohibit slavery and involuntary servitude, except as punishment
14 for a crime for which a person has been found guilty. The amendment gives the U.S.
15 Congress the power to enforce the amendment through legislation.

16 Similar to the U.S. Constitution, under Article II, Section 26 of the Colorado
17 Constitution, slavery and involuntary servitude are prohibited, except as punishment for
18 the conviction of a crime. Amendment A removes this exception.

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

- 24 • *Prison work requirements.* All eligible offenders are expected to work unless
25 assigned to an approved education or training program. Offenders are not
26 required to work, but those who refuse to participate may face a reduction in or
27 loss of privileges or a delayed parole eligibility date.
- 28 • *Community service.* A judge may sentence certain offenders to work a specific
29 number of hours providing community service. These programs emphasize
30 individual restitution for offenses through contributions to the community. In
31 some cases, community service is a condition of probation.
- 32 • *Probation.* The courts require that an offender sentenced to probation maintain
33 suitable employment and/or pursue employment-related education or vocational
34 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 the current
4 language represents a time in the United States when not all people were seen as
5 human beings or treated with dignity. Removing the language reflects fundamental
6 values of freedom and equality, and makes an important symbolic statement.

7 **Argument Against**

- 8 1) Slavery and involuntary servitude are already illegal in all instances, and therefore
9 this is an unnecessary change to the Colorado Constitution that will have little to no
10 impact. Further, the passage of Amendment A may result in legal uncertainty around
11 current offender work practices in the state.

12 **Estimate of Fiscal Impact**

13 **State and local government impact.** Amendment A may minimally impact costs
14 and workload for the Department of Law, the Judicial Department, the Department of
15 Corrections, and the City and County of Denver to hear any challenges to an offender's
16 sentence. To the extent there are more court filings, revenue to the Judicial Department
17 and the City and County of Denver may also increase from court filing fees.