

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 13th 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 in all instances. Therefore, the
9 measure can be viewed as making a change to the Colorado Constitution that is
10 merely symbolic and unnecessary. Under another view, removing the language in
11 the constitution could have the unintended consequence of raising legal uncertainty
12 around current offender work 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.