

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Marla Fernandez-Benavides and Debra Carroll
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 27, 2023
SUBJECT: Proposed initiative measure 2023-2024 #29, concerning the fundamental rights of parents to direct the upbringing, education, and care of their minor children

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

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Earlier versions of this proposed initiative, proposed initiative 2023-2024 #6 and proposed initiative 2023-2024 #11, were the subject of a memorandum dated January 27, 2023, and February 20, 2023, respectively. Proposed initiative 2023-2024 #6 was discussed at a public meeting on January 31, 2023, and proposed initiative 2023-2024 #11 was discussed at a public meeting on February 22, 2023. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative.

However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purpose of the proposed initiated measure appears to be to establish certain fundamental rights for parents as they relate to their minor children.

Substantive and Technical Comments and Questions

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

1. The proposed initiative states an intent to codify House Bill 22-1236. The proposed initiative should not refer to a bill. Instead, the proposed initiative should replicate provisions of House Bill 22-1236 in the Colorado constitution or Colorado Revised Statutes.
2. Under "Definitions," section 3 states the section takes effect December 31, 2023. Since it is not a TABOR ballot question, the proposed initiative must be for the 2024 general election, which will be held on November 5, 2024, so the effective date cannot be before that date.
3. Under "Parental rights reserved – exceptions," section (3)(iii) is under the definitions heading but appears to be substantive text.
4. Section (3)(vi) appears to amend section 3 of article II of the Colorado constitution and section (6)(v) appears to amend section 5 of article IX of the Colorado constitution. Each new section should have a separate amending clause.
5. What portions of the Colorado constitution or Colorado Revised Statutes are sections (3)(vii), (3)(viii), and (3)(ix) intending to amend?
6. Section (7)(viii) states the proposed initiative takes effect following the November 2023 election of school board directors. The proposed initiative is for the 2024 general election, not the 2023 school board elections.