

Amendment T No Exception to Involuntary Servitude Prohibition

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

- 2 ◆ remove language that currently allows slavery and involuntary servitude
3 to be 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
6 which one person has absolute power over the life, fortune, and liberty of another
7 person. The U.S. Supreme Court has defined "involuntary servitude" as a condition of
8 servitude in which one person is forced to work for another person by the use or threat
9 of physical restraint or physical injury, or by the use or threat of coercion through law
10 or the legal process.

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

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

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

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

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

- 1 • *Probation.* The courts require that an offender sentenced to probation
2 maintain suitable employment and/or pursue employment-related
3 education or vocational training.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 8, 2016**, 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>

4 **Argument For**

5 1) The section of the Colorado Constitution that allows slavery and involuntary
6 servitude as punishment for a crime should be updated because it represents a time in
7 the United States when not all people were seen as human beings or treated with
8 dignity. Removing the language reflects fundamental values of freedom and equality,
9 and makes an important symbolic statement. There are 25 other states that do not
10 have any language related to slavery and involuntary servitude in their constitutions,
11 and both prison work and community service programs are able to operate within
12 those states.

13 **Argument Against**

14 1) Amendment T may result in legal uncertainty around current offender work
15 practices in the state. Prison work requirements provide structure and purpose for
16 offenders, while enabling skill building and helping to reduce recidivism. Community
17 service programs allow offenders to engage with the community and make amends for
18 their crimes.

19 **Estimate of Fiscal Impact**

20 **State revenue and spending.** Amendment T may impact both state revenue and
21 spending. Should Amendment T be interpreted as prohibiting community service
22 sentences, more fines may be imposed in place of community service and fewer
23 probation fees may be collected from those currently sentenced to community service
24 as the sole condition of probation. Amendment T may also impact costs and workload
25 for the Department of Law, Department of Corrections, and Judicial Department due
26 to potential legal challenges.

27 **Local government impact.** Amendment T may increase jail and county court
28 costs for local governments and impact revenue and workload for the City and County
29 of Denver due to potential legal challenges.