

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

- 22 • *Prison inmate work requirements.* All eligible offenders are expected to
23 work unless assigned to an approved education or training program.
24 Offenders who refuse to participate may face a reduction or loss of
25 privileges, delayed parole hearing date, or other consequences.
- 26 • *Community service.* A judge may sentence certain offenders to work a
27 specific number of hours providing community service. These programs
28 focus on individual restitution for offenses with an emphasis on
29 contributing to the community.
- 30 • *Probation.* The courts require that an offender sentenced to probation
31 maintain suitable employment and/or pursue employment-related
32 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>

1 **Argument For**

2 1) This 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 in
4 the United States when not all people were seen as human beings or treated with
5 dignity. Removing the language reflects fundamental values of freedom and equality,
6 and makes an important symbolic statement.

7 **Argument Against**

8 1) Amendment T may result in legal uncertainty around current offender work
9 practices in the state. Such practices have a place in the correctional system as a
10 way to provide structure and purpose for offenders, as well as allowing offenders to
11 engage with the community to atone for their crimes. Legal challenges resulting from
12 the passage of Amendment T could put the application of these practices in jeopardy.

13 **Estimate of Fiscal Impact**

14 *(Please Note: A summary of the fiscal impact will be included in this space in the*
15 *second draft of the analysis, and an official fiscal note will be prepared and placed on*
16 *the web when the final blue book is sent to voters.)*