

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Lori Gimelshteyn and Erin Lee
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 4, 2023
SUBJECT: Proposed Initiative Measure 2023-2024 #103, Concerning Parental Rights and Responsibilities

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.

Purpose

The major purpose of the proposed amendment appears to be to enshrine the fundamental and inalienable right for parents to direct and control the upbringing of their children.

Substantive Comments and Questions

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

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: “Be it Enacted by the People of the State of Colorado”. To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
2. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
3. Pursuant to article V, section 1 (2) of the Colorado constitution, proposed initiatives must amend either the Colorado constitution or the Colorado Revised Statutes. The proposed initiative should be revised to include an amending clause that indicates whether it amends the Colorado constitution or the Colorado Revised Statutes and where in the constitution or statutes the provisions should be inserted.
4. Section 1 of the proposed initiative appears to be a short title and possibly a declaration of intent. What is the intent of Section 1?
5. Section (3) states "notwithstanding any *previous* enacted laws in the state of Colorado a parent has the right:" Is it the proponent’s intent to allow the general assembly to enact laws after the proposed initiative becomes effective that would conflict with the rights in the proposed initiative? [*emphasis added*]
6. Section 3 (7) of the proposed initiative states that parents have a right “to be promptly notified if an employee of the State suspects that a criminal offense has occurred...”. Who is required to notify parents?
7. Section 4 (7) of the proposed initiative uses the term "gender incongruence" and follows the term with its meaning. It appears the intent is to define "gender incongruence". If so, please include it as a definition in Section 2 of the proposed initiative.
8. Section 4 (7) of the proposed initiative states that parents have “the right to be promptly notified if their child is experiencing ‘gender incongruence’...”. Who is required to notify parents?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. The following is the standard drafting language used for creating a definition:
“As used in this [article][part][section], unless the context otherwise requires, “[term]” means (the definition for the term)...”. For example:

xx-xx-xxx. Definitions. As used in this [article][part][section], unless the context otherwise requires:
 - (1) "Child" means...
 - (2) "Parent" means...
 - (3) "State" means...
2. The text of the language being added to the Colorado constitution or Colorado Revised Statutes should be in SMALL CAPITAL LETTERS.
3. Each sentence should be preceded with either a number or letter as follows:
 - (1) Subsection
 - (a) Paragraph
 - (I) Subparagraph
 - (A) Sub-subparagraph
4. Section number headings should only be included for each amending clause for each separate article, part, or section you are amending or adding. For example:
SECTION 1. In Colorado Revised Statutes, add [part] to [article] of [title] as follows:

xx-xx-xxx. Legislative declaration.

xx-xx-xxx. Definitions.

xx-xx-xxx. Parental bill of rights.

xx-xx-xxx. Parental legal rights for their children’s education.

xx-xx-xxx. Parental consent for mental and medical health treatment.

SECTION 2. Severability.

SECTION 3. Effective date – applicability.

5. Section 4 (5) contains a typographical error: "The The right to review".