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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: January 16, 2024
SUBJECT: Proposed Initiative Measure 2023-2024 #140, concerning parental consent for health care treatment of a child.

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 to the Colorado Revised Statutes appears to be to prohibit a mental or medical health care provider, practitioner, or facility from providing, soliciting, or arranging the diagnosis, treatment, or intervention for a child without first consulting, and obtaining written or documented consent from, the child's parent.

Substantive Comments and Questions

1. 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?
2. Section 2 of the proposed initiative states "...[a] provider, practitioner, or facility shall not...*arrange diagnosis*...." What does it mean to "arrange diagnosis"? [*emphasis added*]
3. In Section 2 of the proposed initiative, it states "diagnosis, treatment, *and/or* intervention...." Standard drafting practice prohibits the use of slashes. The proponents should consider using only "and" or "or."
4. In Section 2 of the proposed initiative, it requires "specific written or documented consent...." What does "specific" mean in this context?

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 section, unless the context otherwise requires:" Please consider amending proposed section 19-1-132 (1) introductory portion, C.R.S.
2. The first word of every new sentence or provision should be capitalized when adding a new section to the Colorado Revised Statutes. Please consider correcting the capitalization usage at the beginning of proposed section 19-1-132 (1)(a), (1)(b), and (2), C.R.S.
3. In proposed section 19-1-132 (1)(a), C.R.S., the word "Emancipated" is capitalized. Is it the proponents' intent to capitalize "Emancipated"? If not, please use small capitalization.
4. It is standard drafting practice to hyphenate the term "health care" when it is used as a modifier within the Colorado Revised Statutes, such as "health-care

provider." Please consider hyphenating "health care" in proposed section 19-1-132 (2), C.R.S.

5. In proposed section 19-1-132 (2), C.R.S., the word "Except" is capitalized. Is it the proponents' intent to capitalize "Except"? If not, please use small capitalization.
6. In proposed section 19-1-132 (2), C.R.S., the period at the end of the sentence is stricken. The proponents should consider removing the stricken period.