

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Edgar Antillon and Isaac Chase
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: January 22, 2024
SUBJECT: Proposed Initiative Measure 2023-24 #147, concerning Criteria for Obtaining Concealed Handgun Permit

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.

An earlier version of this proposed initiative, proposed initiative 2023-24 #106, was the subject of a memorandum dated December 15, 2023. Proposed initiative 2023-24 #106 was discussed at a public meeting on December 19, 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.

Purpose

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to make persons who are lawful users of marijuana pursuant to the Colorado Constitution eligible for a permit to carry a concealed handgun (concealed carry permit).

Substantive Comments and Questions

The substance of the proposed initiative raises the following 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. Under existing state law, section 18-12-203 (1)(c), C.R.S., which is unchanged by this proposed initiative, a person who is ineligible to possess a firearm pursuant to federal law is not eligible for a concealed carry permit. Pursuant to federal law, 18 U.S.C. § 922 (g), a person who is an unlawful user of a controlled substance, which includes marijuana, is prohibited from possessing a firearm. Would the proponents consider amending section 18-12-203 (1)(c), C.R.S., to clarify that a person who is a lawful user of marijuana under state law is not ineligible pursuant to that subsection (1)(c)?
3. Concerning the new language added to the end of section 18-12-203 (1)(f), C.R.S., what does it mean for a sheriff to "follow" state law "when it comes to marijuana use"? Would the proponents consider clarifying that whether an applicant is an unlawful user of marijuana is determined by state law and regulations?

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. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears

as ~~stricken type~~, to show language being removed from the Colorado Revised Statutes.

- a. The language in proposed section 18-12-203 (1) introductory portion was changed from "except as set forth in this section" to "except as otherwise provided in this section" without showing the changes in strikes and small caps.
 - b. It appears that the language "EXCEPT THAT A SHERIFF SHALL NOT USE A PERMIT APPLICANT'S LAWFUL USE OF MARIJUANA PURSUANT TO SECTION 14 OR 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION AS A BASIS FOR DENYING THE APPLICANT A PERMIT" is in ALL CAPITAL LETTERS not SMALL CAPITAL LETTERS.
2. It is standard drafting practice to follow the word preceding "except that" with a semi-colon.
 3. At the end of the proposed amendment to section 18-12-203 (1)(f), C.R.S., a comma should be added after "MARIJUANA USE."