

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Evelyn Hammond and Lucas Granillo
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: January 26, 2024
SUBJECT: Proposed initiative measure 2023-2024 #150, concerning Damages Involving Catastrophic Injury or Wrongful Death

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.

This initiative was submitted with a series of initiatives, including proposed initiative 2023-2024 #149. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2023-2024 #149, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in that memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To allow an injured person or the injured person's family to recover the total amount of damages awarded by a jury or judge in cases involving catastrophic injury or wrongful death, without adhering to a cap on damages.

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. The initiative adds section 102.7 to part 1, titled "General Provisions," of article 21, titled "Damages," of title 13, titled "Damages and Limitations on Actions." What is your intent in placing the proposed section here?
3. The proposed initiative permits an injured person or the injured person's family to recover damages for a catastrophic injury. Is it the proponents' intent to only permit a person's family to recover damages when the person dies or can the family recover damages in any situation? Would the proponents consider defining the term "family" so it is clear who may recover damages under the proposed initiative?
4. In the Colorado Revised Statutes, "person" is generally defined to mean "a natural person, firm, association, corporation, or other legal entity" and therefore includes "companies." Would the proponents consider deleting "company's" from the proposed initiative?

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 constitution or the Colorado Revised Statutes.
2. When referencing acts in the Colorado Revised Statutes that contain multiple sections, refer to citation as "act, as provided in sections xx-xx-xxx to xx-xx-xxx."