

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Julie Whitacre and Alyssa Davenport
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 29, 2024
SUBJECT: Proposed initiative measure 2023-2024 #277, 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.

Purpose

The major purpose 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 a 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. 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. After each section number there is an explanatory heading, or "headnote," in bold-type that should briefly describe the content of the section. When the content of the section includes definitions, the headnote should include "definitions" in the headnote separated by a dash and should appear at the end of the substantive portion of the headnote.
2. It is standard drafting practice to use the singular form of a noun or pronoun whenever possible. For example, in subsection (1) of the proposed initiative, it reads "their family." It should instead read "the person's family."
3. It is standard drafting practice for the definitions section to appear as the first subsection of the section and to list the defined terms in alphabetical order. Each defined term is set off by quotation marks, and the introductory portion of the definitions subsection should read: "As used in this section, unless the context otherwise requires:".

4. When referencing a citation in the Colorado Revised Statutes that contains multiple sections, refer to the sections as "sections 24-10-101 to 24-10-120" instead of using "*et seq.*"