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From: Ms. Marla F Benavides and Debra Carroll

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Date: February 3, 2023

Re: **Proposed initiative measure concerning the Fundamental Rights of Parents.**

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### **The Parent Right in Education**

Concerning the fundamental right of parents to direct the upbringing, education, and care of their minor children.

**Citizens' initiative: 2023**

**SUBJECT: PARENT'S RIGHT AMENDMENT.**

### **SUMMARY**

For Education years commencing on and after November 2024, the ballot initiative amends the compulsory education section, and establishes a parent right in education that sets forth specific parental rights relating to directing the upbringing and raising of children, a contractual basis obligation for parents to sue if the public school, the higher standard of best interest of the child, and the clearly sets the role of parents and the school regarding the education. The Amendment requires that the government cooperate with the parents when making decisions and prohibits the government from usurping the parents absolute right in rearing their children as they see fit; in short it defines the role parents have to direct the education of their children and decide the school of choice that best fits their child(ren)'s needs.

The amendment prohibits an individual, corporation, association, organization, state-supported institution, or individual employed by any of these entities from procuring, soliciting to perform,

arranging for the performance of, or performing a surgical procedure upon a minor without written or verbal consent from the minor's parent.

## **Article IX. Education. Section 11. Compulsory education.** **PARENT RIGHTS.**

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO, AMENDS THE COLO. CONST. ART. IX, SECTION 11. In the Colorado Constitution, amends the language of Section 11 and adds the following from Article 16:

**The People of Colorado** find that education is a free option parents may opt in to if they so desire, being necessary to the security of parents residing in the state, the right of the parents to raise, train and direct the upbringing, education, and care of their minor child(ren) shall not be infringed.

- 1) **BIOMETRIC SCANNING.** These records must be in writing and filed with the State, before the State or any of its political subdivisions takes a photo or makes a video or voice recording of the minor child, unless the photo, video, or voice recording is to be used solely for any of the following purposes:
  1. A purpose related to a legitimate academic or extracurricular activity.
  2. A purpose related to regular classroom instruction.
  3. Security or surveillance of buildings or grounds; or
  4. A photo identification card; and
  5. Be notified promptly if an employee of a public-school suspects that a criminal offense has been committed against the minor.
  6. This subsection does not create a new obligation for a school to report misconduct between students at school to report misconduct between students, such as fighting or aggressive play, that is routinely addressed by the school as a student disciplinary matter.
- 2) **PARENTAL RIGHTS RELATED TO EDUCATION OF A MINOR CHILD - policy for parental involvement - request for information.** All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to, all the following rights of a parent of a minor child in this state:
  - i. The right to direct the education and care of his or her minor child.

- ii. The right to direct the upbringing and the moral or religious training of his or her minor child.
- iii. The right to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, shall not be infringed.
- iv. The right to access and review all school records relating to his or her minor child.
- v. The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.
- vi. The right to access and review all medical records of his or her minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.
- vii. The right to consent in writing prior to a biometric scan of his or her minor child is made, shared, or stored.
- viii. The right to consent in writing prior to any record of his or her minor child's blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to a court order.
- ix. The right to consent in writing prior to the state or any of its political subdivisions makes a video or voice recording of his or her minor child unless such recording is made during or as part of a court proceeding or is made as part of a forensic interview in a criminal or Department of Human Services: Children and Families investigation or is to be used solely for the following purposes:
  - 1. A safety demonstration, including the maintenance of order and discipline in the common areas of a school or on student transportation vehicles.
  - 2. A purpose related to a legitimate academic or extracurricular activity.
    - 1. A purpose related to regular classroom instructions.
    - 2. Security or surveillance of buildings or grounds; or
    - 3. A photo identification card.
- x. The right to be notified promptly if an employee of the state, any of its political subdivisions, any other governmental entity, or any other institution suspects that a criminal offense has been committed against his or her minor child, unless the incident has first been reported to law enforcement or the Department of Human

Services: Children and Families and notifying the parent would impede the investigation.

- xi. This section does not:
  - a) Authorize a parent of a minor child in this state to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law.
  - b) Condone, authorize, approve, or apply to a parental action or decision that would end life.
  - c) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority; or
  - d) Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.
- xii. An employee of the state, any of its political subdivisions, or any other governmental entity who encourages or coerces, or attempts to encourage or coerce, a minor child to withhold information from his or her parent may be subject to disciplinary action or fired.
- xiii. A parent of a minor child in this state has inalienable rights that are more comprehensive than those listed in this section unless such rights have been legally waived or terminated by a trial by jury of its peers only. This ensures the termination process fairer. This chapter does not prescribe all rights to a parent of a minor child in this state. Unless required by law, the rights of a biological parent of a minor child in this state may not be limited or denied. This chapter may not be construed to apply to a parental action or decision that would end life.
- xiv. A biological parent's right to his or her child may not be terminated unless found guilty of crime and that beyond a reasonable doubt of abuse or neglect or the parent has voluntarily terminated his or her right. There must be a clear and present danger to the child for parental rights to be terminated. The clear and convincing evidentiary rule does not suffice in terminating parental rights.
- xv. The general assembly or the state or county board of education may not exclude parents from prescribing textbooks to be used nor exclude the parent from controlling the instruction of their children in classrooms.
- xvi. The right of parent to refund for their children's education in the event the parent opts-out of a government school.

- xvii. The State treasury must appropriate any funds or monies available to the parents opting out of government education without reserve or penalties.
- xviii. Any funding raised by the government for schools belongs to the taxpayers. The taxpayers should have a choice of opting out of the government school without government oversight or recourse.
- xix. The government may not control where the any parent or taxpayer allocates their tax refund.
- xx. Neither the General Assembly, county, city, town, township, school district or other public corporation, shall prohibit aid to any parent or taxpayer or deny support or prevent any parent or taxpayer from using the funds to transfer to another school whether private, nonpublic homeschool, or other literary institution or sectarian denomination.
- xxi. Parents have a right to choose the education that suits their children best and the government must not interfere with this right.

**3) TAX REFUND OR TAX CREDIT SHALL HAVE NO STRINGS ATTACHED BY GOVERNMENT.**

- i. A TAXPAYER OPT-OUT PROGRAM must be formed that allows taxpayers to opt-out of funding public education.
  - ii. A PARENT TAX CREDIT and/or REFUND PROGRAM must be formed that allows any parent opting out of the public school system to receive their child(ren)'s funds for that particular school without government oversight.
  - iii. AMEND ARTICLE IX. Education. Section 5. The public school fund MUST NOT consist of the proceeds of land WITHOUT FIRST ASKING THE PROPERTY OWNER AT THE TIME OF THE REAL ESTATE TRANSFER OF SALE WHETHER SAID PROPERTY OWNER grants to the State PERMISSION TO COLLECT proceeds FROM such land for educational purpose; All estates that may escheat to the state; Also THE STATE MUST NOT DIRECTLY TAX ANY CITIZEN'S PROPERTY TO FUND EDUCATION OR LEVY THE PROPERTY ON ANY PERSON; all other grants, gifts or devises that may be made to the State for educational purposes MUST BE MADE AT THE TIME OF REAL ESTATE TRANSACTION.
  - iv. TAXATION MUST BE A VOLUNTARY THING.
- 4) The School District must develop a plan for parent participation in the school that is designed to improve parent and teacher cooperation in areas as homework, attendance, curriculum, and discipline.

- i. Procedures by which a parent can learn about the parental rights and responsibilities under the laws of the State, INCLUDING THE RIGHT TO:
  - a) Obtain information concerning school choice, vouchers, and open enrollment rights.
  - b) To OPT OUT of any school, an assignment or program the parent objects to as it relates to morals or religious training of the minor.
  - c) Example of a program or assignment is Social Emotional Learning, Critical Race Theory, counseling session or equity and inclusion.
    - 1. Receiving information concerning the minimum course of study and competency requirements for graduation from high schools.
    - 2. For the purpose of this section, competency requirement means the requirement to make sure a child has a basic education that includes reading, writing and math proficiency.
    - 3. Receiving information concerning the minimum course of study and competency requirements for graduation from high school.
    - 4. Access and review school records.
    - 5. Have the parents' minor child participate in gifted and talented. Every child is gifted and talented at something.
    - 6. Receive information related to attendance requirements.
    - 7. Receive policies related to parental involvement pursuant to Colorado law.
    - 8. Participate in parent-teacher associations and organizations that are sanctioned by the board of education of the school districts, and
    - 9. Opt-out of any collection instrument at the district level that would capture data for inclusion in the statewide longitudinal student data system, except what is necessary and essential for establishing a student public-school record.
- ii. The policy to promote parental involvement must include:
  - a) A concrete plan for parental participation, and all schools must improve parent and teacher cooperation in all areas such as homework, curriculum design, school attendance, textbooks to be used, and discipline must align with parental discipline at home.
    - 1. The plan may incorporate a nonpartisan parent-taxpayer caucus that nominates candidates that will represent parents and

taxpayers in the school board. Anyone can petition onto the ballot after this and run for school board.

- iii. THE PARENT-TEACHER ORGANIZATION, as provided by law, must be formed, and well attended. Every parent must be notified of meetings, and the school must make every attempt to ensure every student's parent is made aware of and invited to attend attends school Parent Organization meetings. The school board, superintendent, school administrator, teacher must make every attempt to make sure every student's parent attends school Parent Organization.
- iv. The school must provide the procedure for a parent to learn about his or her minor child's course of study, including the source of any supplemental education materials that may be required of all schools. The school district must be transparent.
- v. Every school must provide the procedures for a parent to object to instructional materials, books, and other materials used in the classroom or placed in the school library. Such objections may be based on beliefs regarding morality, sex, and religion or the belief that such materials are harmful and go against the parents right to worship as they please.
- vi. For purposes of this section, the term "instructional materials" may include other materials used in the classroom, including workbooks and worksheets, handouts, software, applications, and any digital media made available to students.
- vii. Every school must provide the Procedures for a parent to withdraw or opt out from any or all portions of the school district's comprehensive health education required under C.R.S. § 22-5-104(1)(a) that relates to sex education or any instruction regarding sexuality if the parent provides a written objection to his or her minor child's participation. Such procedures must provide for a parent to be notified in advance of such course content so that parent may withdraw or opt out their minor child from those portions of the course.
- viii. Every school must provide the procedures for a parent to learn about the nature and purpose of clubs and activities offered at his or her minor child's school, including those that are extracurricular or part of the school curriculum.
- ix. No school may segregate or discriminate against students on the basis of race, class, or gender.
- x. Every school must provide the procedures for a parent to learn about parental rights and responsibilities under general law, including all of the following:
  - a) The right to opt his or her minor child out of any portion of the school district's comprehensive health education that relates to sex education

or social emotional learning instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality, or a revisionist history of America.

- b) The schools must educate parents on schools' plans to disseminate information about school choice options, including open enrollment, and/or tax credit for opting out of public school.
  - c) The right of a parent to exempt his or her minor child from immunization.
  - d) The right of a parent to review statewide, standardized assessment results.
  - e) The right of a parent to enroll his or her minor child in gifted or special education programs.
  - f) The right of a parent to inspect school district instructional materials.
  - g) The right of a parent to access information relating to the school district's policies for promotion or retention, including high school graduation requirements.
  - h) The right of a parent to receive a school report card and be informed of his or her minor child's attendance requirements.
  - i) The right of a parent to access information relating to the state public education system, state standards, report card requirements, attendance requirements, funding allocated to each student at their school and instructional materials requirements.
  - j) The right of a parent to participate in parent-teacher associations and organizations that are sanctioned by a district school board or the Department of Education.
  - k) The right of a parent to opt out of any district-level data collection relating to his or her minor child is not required by law.
- xi. A district school board may provide the information required in this section electronically or post such information on its website, however, the school must mail out the information to the parents directly to them, so they are aware of their rights. If the parent doesn't understand English, a translation must be made.
- xii. A parent may request, in writing, from the district school superintendent the information required under this section. Within 10 days, the district school superintendent must provide such information to the parent. If the district school superintendent denies a parent's request for information or does not respond to the parent's request within 10 days, the parent may appeal the denial to the

district school board. The district school board must place a parent's appeal on the agenda for its next public meeting. If it is too late for a parent's appeal to appear on the next agenda, the appeal must be included on the agenda for the subsequent meeting.

- xiii. A school official or other person who violates this section is subject to disciplinary action and breaches the contractual obligation between parent and school and may be liable in a civil proceeding.
- xiv. Teachers, school, board of directors are not exempt from lawsuit for breach of contract.

**5) PARENTAL RIGHTS RELATED TO HEALTH CARE OF A MINOR CHILD - EXCEPTION - PENALTY.** Except as otherwise provided by law, a health care practitioner, or an individual employed by, such health care practitioner specifically may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining written parental consent.

- i. Notwithstanding any other provision of law, an individual, corporation, association, organization, state-supported institution, or individual employed by any of these entities must not procure, solicit, to perform, or arrange for the performance of, or perform a surgical procedure upon a minor child without first obtaining written or verbal consent from the minor's parent that is immediately documented.
- ii. Parental consent is always required unless parental rights have been terminated.
- iii. Except in life threatening conditions to save the life of the child, or by a court order, a provider may not allow a medical procedure to be performed on a minor child in its facility without first obtaining written parental consent.
- iv. This section applies to abortion procedures.
- v. This section does not apply to services provided by a clinical laboratory unless the services are delivered through a direct encounter with the minor and minor is accompanied by parent or legal guardian at the clinical laboratory facility.
- vi. For purposes of this subsection, the term "clinical laboratory" means the doctor's office, hospital, or medical facility.
- vii. A health care practitioner or other person who violates this section is subject to disciplinary action and commits a misdemeanor of the first degree, punishable by Colorado criminal law.
- viii. THIS AMENDMENT takes effect at 12:01 a.m. on the day following the November 2024 general election.

