

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Marla Fernandez-Benavides and Debra Carroll
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: May 25, 2023
SUBJECT: Proposed initiative measure 2023-2024 #66 concerning "parental rights in education"

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.

Purposes

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

1. To add the right of parenting and protection of a person's children to the list of inalienable rights in section 3 of article II of the Colorado constitution; and

2. To add language to section 3 of article II of the Colorado constitution that deems all inalienable rights listed therein as "created before the government was created," "absolute", and "God-given."

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Section 1 (5.5) of article V of the Colorado constitution requires all proposed initiatives to have a single subject, which subject must be clearly expressed in the title. What is the single subject of the proposed initiative?
 - a. The title of the proposed initiative is "Concerning parental rights in education" and the summary indicates the initiative "amends the compulsory education section, and establishes parental rights in education." However, section 3 of article II of the Colorado constitution is not a "compulsory education section" of the constitution. In addition, education of children is not included in the language to be added to section 3 of article II of the Colorado constitution. Consider whether education should be added to the substance of the proposed initiative. Alternatively, consider revising the title and summary to reflect the single subject of the inalienable right of parenting.
2. The summary of the proposed initiative states that it establishes a fundamental right for parents in the education of their children to decide all matters regarding school choice. However, this language is only in the summary and is not included in the text of the proposed initiative. Is it your intent that the proposed initiative modifies parental rights regarding school choice? If so, how does the text of the proposed initiative address this issue?
3. What will be the effective date of the proposed initiative?
 - a. The summary, which pertains to parental rights in education as noted above, states the effect of the proposed initiative will be "For Education years commencing on January 1, 2024." How is this possible when the proposed initiative would be placed on the November 2024 general election ballot? Consider changing the effective date to provide for implementation after the November 2024 election.
 - b. Is it your intent that the summary of the proposed initiative be included in the text to be added to the constitution? If not, consider adding the

"January 1, 2024" date to an effective date clause that is part of the text of the proposed initiative.

- c. Given that the substance of the proposed initiative as written does not pertain to education, consider whether the proposed initiative as written should be tied to calendar years rather than education years. For instance, the proposed amendment could be effective for calendar years commencing on or after January 1, 2025.

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. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.). For example:

SECTION 1. In the constitution of the state of Colorado, **amend** section 3 of article II as follows:

2. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, add section __ to article X as follows:".
3. All of the existing language in section 3 of article II of the Colorado constitution should be included in the proposed initiative, including the headnote.
4. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:
 - a. X-X-XXXX. Headnote.
 - b. (1) Subsection
 - c. (a) Paragraph
 - d. (I) Subparagraph

e. (A) Sub-subparagraph

5. 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. Accordingly, the substantive language to be added to section 3 of article II of the Colorado constitution, which appears at the top of page 2, should be changed from all caps to small capital letters.