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Colorado General Assembly

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MEMORANDUM

TO: Faye Barnhart and Angela Eicher
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: August 31, 2023
SUBJECT: Proposed initiative measure 2023-2024 #84, concerning equal protection of every living child in Colorado

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 initiatives 2023-2024 #81 to 83. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2023-2024 #81 to 83, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Earlier versions of this proposed initiative, proposed initiatives 2023-2024 #26 and 2023-2024 #74, were the subject of memoranda dated March 24, 2023, and July 21, 2023, respectively, which were discussed at public meetings on March 28, 2023, and July 25, 2023, respectively. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, 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 prohibit intentionally harming any living human child, including dismembering, mutilating, poisoning, scalding, or treating inhumanely to cause physical damage which leads to disability or death.

Substantive Comments and Questions

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

1. What is the single subject of the proposed initiative?
2. Section 18-6-903 (3) requires a facility or dispensary to be permanently closed and all permits and licenses permanently revoked. Do the facilities or dispensaries receive due process before being closed and having their permits and licenses revoked?

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. Only the text of the language being added to the Colorado Revised Statutes should be in SMALL CAPITAL LETTERS. The amending clause, "In Colorado Revised Statutes, add part 9 to article 6 of title 18 as follows:" should appear in normal font. Additionally, the applicability and effective date clauses in Section

2 and Section 3 of the proposed initiative should be in normal font, not SMALL CAPITAL LETTERS.

2. A section number, rather than a section of the Colorado Revised Statutes, should be included before the nonstatutory legislative declaration. Section 1 of the proposed initiative should be renumbered to Section 2. For example:

SECTION 1. Legislative declaration.

SECTION 2. In Colorado Revised Statutes, add part 9 to article 6 of title 18 as follows:

3. Each definition should appear in alphabetical order and include subsection numbers. For example:

18-6-902. Definitions. As used in this part 9, unless the context otherwise requires:

- (1) "Dispensary" means...
- (2) "Facility" means...
- (3) "Living child" means...

4. Subsection (2) of section 18-6-903 references "a violation of 18-6-903 (1)." When referencing a subsection within the same section, it is standard drafting practice to use the language "subsection (1) of this section" rather than restate the section number.