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Colorado General Assembly

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MEMORANDUM

To: Alicia D. Cooper and Shamelle Chotoki

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 13, 2025

Subject: Proposed initiative measure 2025-2026 #42, concerning protections regarding domestic abuse and tribal courts

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 and questions 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 and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Colorado Legislative Council and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Purposes

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

1. To protect children and former spouses from emotional abuse, mental abuse, physical abuse, and post-separation abuse, including legal protections for victims of post-separation abuse and post-divorce abuse; and
2. To ensure survivors of abuse who are members of a Sovereign Nation have protection under state, federal, and tribal law.

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. Article V, section 1 (8) of the Colorado Constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado." To comply with this constitutional requirement, this phrase must be added to the beginning of the proposed initiative.
3. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor.

Because the proposed initiative does not contain an effective date, the date of the official declaration of the vote and proclamation of the governor would be the default effective date. Does this default effective date satisfy the proponents' intent? If not, the proponents should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

4. You have submitted an idea, rather than the actual language that would be added to the Colorado Revised Statutes. Please amend your proposal to include the actual text of your proposed statutory change.
5. The following comment and question relate to definitions in section 1 of the proposed initiative:
 - a. The terms “child abuse post-divorce” and “sealing domestic violence cases” do not appear anywhere in the proposed initiative outside of the definition section. Would the proponents of the initiative consider removing these definitions from the proposed initiative?
6. The following comments and questions relate to section 2 of proposed initiative:
 - a. Section 2 of the proposed initiative identifies emotional abuse, mental abuse, physical abuse, post-separation abuse, and child endangerment as “serious criminal offenses.” What is a “serious criminal offense”? The proponents may consider further explaining what is meant by “serious criminal offense” and amending the criminal code, where necessary, to ensure these actions are included as a criminal offense in a way that meets the proponents’ intent.
 - b. The term “post-separation abuse” is used in this section. Do the proponents mean to use “post-divorce separation abuse” instead? If so, would the proponents consider revising this language?
 - c. Section 2 outlines an idea for change rather than actual bill language. The proponents should revise this section to include actionable language.
7. The following comments and questions relate to the provisions in section 3 of proposed initiative:
 - a. Section 3 proposes a list of services that survivors of abuse have access to. How do the proponents intend for these services to be provided and by whom are the services provided?
 - b. Section 3 uses the term “survivor of abuse.” Is the intent to include all survivors of abuse or just children of divorce?
8. The following comments and questions relate to the provisions in section 4 of the proposed initiative:

- a. Corporal punishment is already illegal when administered by people who work or volunteer at public schools, state licensed child care centers, family child care homes, and specialized group facilities. Is it the intent of the proponents to broaden this to include the parents or caregivers of a child? If so, please consider amending current law regarding corporal punishment to include those you intend to cover.
 - b. How does the initiative promote alternative non-violent parenting methods?
- 9. The following questions relate to the provisions in section 5 of the proposed initiative:
 - a. Who would train professionals to recognize gaslighting and narcissistic behaviors in children or in the children's parents?
 - b. What happens if a professional recognizes gaslighting or narcissistic behavior?
 - c. How does the proposed initiative intend to require early intervention into gaslighting and narcissistic behavior?
- 10. The following comments and questions relate to the provisions in section 6 of the proposed initiative:
 - a. What are tailored protection orders?
 - b. Protection orders are established for a period of time based on the facts of a case and a judge's professional judgment. How is a victim's safety and security determined in setting a duration for the protection order?
 - c. How does the proposed initiative expand protections under state and federal law for people with disabilities and the elderly?
 - d. The 2025 Colorado legislative session should be referred to in statute as the "first regular session of the seventy-fifth general assembly" instead of "the Colorado Congressional Session of 2025."
 - e. Instead of referencing specific bills, the proponents should make necessary changes to existing law or create a new section of law to meet the intent of the proposed initiative.

- f. Subsection (e) of section 6 of the proposed initiative uses the term “post-divorce abuse.” Do the proponents mean “post-divorce separation abuse”?
 - g. How does the proposed initiative protect LGBTQ+ individuals?
 - h. How do the proponents intend to allocate resources to provide culturally competent counseling and legal assistance to LGBTQ+ individuals?
 - i. Social security beneficiaries are generally the spouse, common law spouse, or dependent child of the deceased person. The proponents may consider amending necessary state law if the proponents intend to broaden the eligibility requirements for receiving the social security benefits of a deceased person.
11. The following comments and questions relate to the provisions in section 7 of the proposed initiative:
- a. Subsections (a) and (b) of section 7 outline an intention and cite past legislation instead of actual bill language. The proponents should make necessary changes to existing law or create a new section of law to meet the intent of the proposed initiative.
 - b. The proposed initiative references “survivors.” What type of survivors do the proponents intend to be the focus of these requirements?
 - c. The proposed initiative requires legal aid and advocacy services to be provided to indigenous survivors. What entity is responsible for providing these services?
 - d. The proposed initiative requires programs to be developed to integrate indigenous customs and restorative justice practices into survivor rehabilitation and perpetrator accountability. What kind of programs do the proponents intend to establish and how will these programs be developed? What is the proponents’ intended meaning of “perpetrator accountability”?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public hearing only if the

designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment hearing. Please consider revising the proposed initiative as follows:

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 Colorado Revised Statutes, section X-X-XXX, **add** (1) 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, if you intend to add a new article to title 39 of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, **add** article __ to title 39 as follows:".
3. Each section in the Colorado Revised Statutes and the Colorado Constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to sections 1, 2, 3, 4, 5, 6, and 7 of the proposed initiative and be in bold-face type.
4. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

5. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 24-35-204.5."
6. It is standard drafting practice to use SMALL CAPITAL LETTERS 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.
7. For purposes of this statutory initiative, the word "shall" is defined in section 2-4-401 (13.7), Colorado Revised Statutes, and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), Colorado Revised Statutes, "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."
8. Although the text of the proposed initiative should be in SMALL CAPITAL LETTERS, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.
9. The following is the standard drafting language used for creating a definition: "As used in this section, unless the context otherwise requires:
 - (1) '[Term]' means (the definition for the term)...".

The definitions should be in alphabetical order.