

# STATE OF COLORADO

## Colorado General Assembly

Natalie Castle, Director  
Legislative Council Staff

**Colorado Legislative Council**  
200 E. Colfax Ave., Room 029  
Denver, Colorado 80203-1716  
Telephone 303-866-3521  
Facsimile 303-866-3855  
Email lcs.ga@coleg.gov



Ed DeCecco, Director  
Office of Legislative Legal Services

**Office of Legislative Legal Services**  
200 E. Colfax Ave., Room 091  
Denver, Colorado 80203-1716  
Telephone 303-866-2045  
Email olls.ga@coleg.gov

## MEMORANDUM

**To:** Suzanne Taheri and Michael Fields

**From:** Legislative Council Staff and Office of Legislative Legal Services

**Date:** May 6, 2025

**Subject:** Proposed initiative measure 2025-2026 #88, concerning penalties for theft and motor vehicle theft

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.

An earlier version of this proposed initiative, proposed initiative 2025-2026 #33, was submitted by the same designated representatives, was the subject of a memorandum dated February 24, 2025, and was discussed at a public meeting on February 28, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the earlier memorandum or at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. Prior comments and questions that are not restated



in this memorandum continue to be relevant and are considered part of this memorandum.

## **Purposes**

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

1. To increase the penalty for theft involving less than three hundred dollars;
2. To increase the penalty for theft when the person has previous theft convictions;
3. To impose a mandatory minimum sentence for certain theft convictions;
4. To increase the theft penalty when the defendant acts in conspiracy or concert in the commission of the theft;
5. To eliminate the one-thousand-dollar property damage threshold in the element of causing property damage to the vehicle in motor vehicle theft in the second degree; and
6. To impose mandatory minimum periods of imprisonment for motor vehicle theft convictions and unauthorized use of a motor vehicle convictions without eligibility for parole, early release, or alternative sentencing if the defendant has been previously convicted for motor vehicle theft or unauthorized use of a motor vehicle.

## **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. Sections 1, 2, and 3 of the proposed initiative repeal and reenact sections 18-4-401, 18-4-409, and 18-4-409.5, C.R.S. What is the intent in repealing and reenacting the sections rather than amending the specific provisions that are being changed in the sections?



3. Section 18-4-401 (2) of the proposed initiative explains what a thing of “another” is for purposes of the section. Subsections (3)(b), (3)(i), and (4) of section 18-4-401 refer to subsection (2) or paragraphs in subsection (2) in reference to a conviction or violation of section 18-4-401. Subsections (6) and (12)(a) of section 18-4-401 refer to the aggregate values in subsection (2). Since subsection (2) is not a reference to a conviction for or violation of the section and does not include aggregate values (subsection (3) does), the internal references need to be changed.
4. Section 18-4-401 (10)(e) of the proposed initiative states, “For purposes of this subsection (9).” It should state, “For purposes of this subsection (10).” Section 18-4-401 (12)(b) of the proposed initiative states, “As used in this subsection (11).” It should state, “As used in this subsection (12).”
5. By repealing and reenacting section 18-4-401, C.R.S., in the proposed initiative, the numbering system for the section has been changed. That has implications in other parts of the Colorado Revised Statutes that reference this section. For this reason, the initiative will need to include conforming amendments to update references to 18-4-401, C.R.S. The affected sections are: 6-1-409, 6-1-508, 13-21-125, 16-15-102 (1)(a)(VII), 18-1.3-104 (1)(b.5)(II)(B), 18-1.3-201 (2.5)(b)(X), 18-4-413 (3), 26-1-127 (1), 26-2-305 (1)(a), and 35-36-314 (2), C.R.S. Alternatively, if you amend only the provisions you are changing as opposed to repealing and reenacting the entire section, you will not need to include conforming amendment changes in your proposed initiative.
6. In section 18-4-401 (5) of the proposed initiative, a person who acts in conspiracy or concert in the commission of a theft or motor vehicle theft is required to be sentenced to an additional one to three years of imprisonment. Theft and motor vehicle theft contain both felonies and misdemeanors. Is the intent that the additional imprisonment apply to both felonies and misdemeanors or is the use of the term “imprisonment” intended to limit this provision to only felonies?
7. Motor vehicle theft is governed by section 18-4-409, C.R.S., but the sentencing requirement for a person who acts in conspiracy or concert in the commission of motor vehicle theft is added in section 18-4-401 (5) of the proposed initiative. Would the proponents include a reference to the sentencing requirement in section 18-4-401 (5) of the proposed initiative in section 18-4-409, C.R.S., or, instead, include the sentencing requirement for a person who acts in conspiracy or concert in the commission of motor vehicle theft in section 18-4-409, C.R.S.?



8. In section 18-4-409.5 (4) of the proposed initiative, a person convicted of unauthorized use of a motor vehicle who has a prior conviction for unauthorized use of a motor vehicle or motor vehicle theft is required to be sentenced to a minimum 120 days' imprisonment. If it is the person's first offense for unauthorized use of a motor vehicle, it is a misdemeanor, even if the person has a prior offense for motor vehicle theft. Is the intent that the additional imprisonment apply to an unauthorized use of a motor vehicle conviction regardless of whether it is a felony or misdemeanor, or is the use of the term "imprisonment" intended to limit this provision to only felonies?

## **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. When referencing the subsection you are in, the word "this" should precede the reference; for example, proposed section 18-4-401 (3)(b) should say, "any crime enumerated in this subsection (3)."
2. When referencing a subsection in a different part of the section you are in, "of this section" should follow the reference; for example, in proposed section 18-4-401 (3)(i), the wording should be "a violation of subsection (3)(a), (3)(b), or (3)(c) of this section."
3. A comma should follow "2027" in proposed section 18-4-401 (3)(i).
4. An apostrophe should be added after "days" in proposed section 18-4-401 (4) ("thirty days' imprisonment"); proposed sections 18-4-409 (8)(a) and 18-4-409.5 (4)(a) ("sixty days' imprisonment"); and proposed sections 18-4-409 (8)(b) and 18-4-409.5 (4)(b) ("one hundred twenty days' imprisonment").