

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

To: Lindsey Lamb and Raymond Surface

From: Legislative Council Staff and Office of Legislative Legal Services

Date: November 14, 2025

Subject: Proposed initiative measure 2025-2026 #184, concerning the clarification of crime and the restriction on use of emergency lights

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 Staff 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 Legislative Council Staff 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. Making a “crime” an “offense” only when there is a victim, property damage, or harm; and
2. Limiting the circumstances in which a peace officer or other person in control of a police or sheriff vehicle can be in control of a vehicle with red or blue lights to only when the peace officer or person in control of the police or sheriff vehicle is responding to an emergency.

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 (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, this would be the default effective date. Does this default effective date satisfy your intent? If not, you should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.
3. What is your intended result of limiting when a “crime” constitutes an “offense”?
 - a. The term “offense” appears in 325 sections of the Criminal Code, title 18 of the Colorado Revised Statutes, and in more than 1,200 sections of the Colorado Revised Statutes in their entirety. Have the designated representatives reviewed these instances to determine whether the described conduct in these sections involves a victim, property damage, or harm? If these sections do not describe conduct that involves a victim, property damage, or harm, should the sections be amended in the proposed initiative?

4. What is the difference between “harm” and “property damage”? When would there be harm or property damage but not a victim?
5. Section 42-4-238, C.R.S., prohibits a person from being in actual physical control of a vehicle, other than an authorized emergency vehicle, that the person knows contains a lamp or device that is designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light visible directly in front of the center of the vehicle. The section does not govern the **use** of red or blue lights. Do you intend to prohibit a peace officer or other person from being in control of such a vehicle when not responding to an emergency, regardless of whether the red or blue lights are in use?
6. Concerning the proposed amendment to section 42-4-238 (2)(b), subsection (2)(b) is read in conjunction with the introductory portion of subsection (2), which states: “It shall be an affirmative defense that the defendant was:”. As amended by the proposed initiative, and when read in conjunction with the introductory portion, subsection (2)(b) would read: “It shall be an affirmative defense that the defendant was [. . .] while responding to an emergency as described in section 42-4-239 and in actual physical control of a vehicle [. . .]”. Please restate your proposed amendment in subsection (2)(b) so that it forms a sentence when read with the introductory portion of subsection (2).

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 meeting only if the designated representatives 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 follows:

1. Amending clauses are written in lowercase type and follow a specific format, including specific bold-type words and a reference to the full section number of the section, or portions thereof, being amended.
 - a. For example, when amending a single subsection in a section:

SECTION 1. In Colorado Revised Statutes, 18-1-104, **amend**
(1) as follows:

- b. When amending multiple subsections in a section, the full subsection number is listed for each subsection. For example:

SECTION 2. In Colorado Revised Statutes, 42-4-238, **amend** (2)(a) and (2)(b) as follows:

- 2. An introductory portion is a sentence fragment that leads into a list to form a complete sentence. It is standard drafting practice to include the introductory portion in an amended section so that the reader can see the full sentence and context of the amended provision, even if the introductory portion itself is not being amended. For example:

(2) It shall be an affirmative defense that the defendant was:

(a) A peace officer as described in [. . .]

- 3. Unless you intend to add a period at the end of section 42-4-238 (2)(b), please remove the two periods at the end of the subsection in the proposed initiative.