

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Suzanne Taheri and Michael Fields

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

**Date:** April 1, 2025

**Subject:** Proposed initiative measure 2025-2026 #59, concerning child sexual assault sentencing

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 require a court to sentence an offender convicted of a class 4 felony sexual assault on a child or sexual assault on a child by one in a position of trust to an indeterminate term of incarceration that can range from the presumptive range minimum of 2 years to a maximum of the offender's natural life and prohibit a court from sentencing these types of offenders to probation;
2. To require a court to sentence an offender convicted of a class 3 felony sexual assault on a child by one in a position of trust when the child is less than 15 years of age to an indeterminate term of incarceration that can range from the presumptive range minimum of 4 years to a maximum of the offender's natural life and prohibit a court from sentencing these types of offenders to probation;
3. In the crimes of soliciting for child prostitution, pandering of a child, keeping a place of child prostitution, pimping a child, inducement of child prostitution, and patronizing a prostituted child, to change terminology related to prostitution to commercial sexual activity and require the court to sentence an offender convicted of one of the listed offenses to at least the minimum of the presumptive range for the level of offense associated with the crime;
4. In the crime of soliciting a child for prostitution, to add that soliciting a child for commercial sexual activity is a means of committing the offense and to require that when arranging or offering to arrange a meeting that the offender must know that meeting will facilitate commercial sexual activity with a child; and
5. To make the penalty for internet luring of a child when the offense is committed with the intent to meet for the purpose of engaging in commercial sexual activity a class 3 felony and to require the court to sentence the offender to at least the minimum of the presumptive range minimum of 4 years.

## **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. The following comments and questions relate to the provisions in Sections 4, 5, 6, 7, 8, and 9 of the proposed initiative. The proposed initiative changes the terminology related to prostitution to commercial sexual activity.
  - a. The term commercial sexual activity is not defined for part 4 of article 7 of title 18. What is the proponents' intent that commercial sexual activity mean?
  - b. Would the proponents consider defining commercial sexual activity?
3. Concerning Section 10 of the proposed initiative, the offense created in section 18-3-306, C.R.S. is named "internet luring of a child." The added exception omits the word "internet" when referring to the offense. Please add "internet" when referring to the named offense.

## **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. Bolded headnotes at the beginning of amended Colorado Revised Statutes sections are non-statutory and are always shown in lowercase, as applicable. Therefore, there is no need to show changes to headnotes by striking the old language and adding the new in SMALL CAPS.
2. Renumbering or relettering should be expressed by striking the entire enumeration, including the parenthesis, and reintroducing the correct one. For example, Section 4 should show "~~(b)~~ (c)," not "~~(b)~~ c)."

3. In Section 7, the section number of the text being amended does not match the amending clause. The amending clause says to amend “18-3-405,” but the section amended is section 18-7-405, C.R.S.
4. It is standard drafting practice to only capitalize proper nouns, such as "Colorado," "South Platte river," "Pike's Peak community college," or the first letter of the first word of a sentence or enumeration. In Section 10, “except” is capitalized unnecessarily because it follows a semicolon.
5. There is no need to show stricken punctuation when amending existing statute. Instead of “18-3-401;” it can instead be “18-3-401; simply replacing the period with a semicolon.
6. Section 11 of the proposed initiative establishes an effective date and applicability clause. Both of these purposes need to be reflected in the section’s headnote. Additionally, the section needs to include the standard language for this purpose. For example:

**Section 11. Effective date - applicability.** This act takes effect \_\_\_\_\_ (insert a fixed date) and applies to offenses committed on or after said date.