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Colorado General Assembly

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MEMORANDUM

To: Mark Geist and Michele Austin

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 18, 2025

Subject: Proposed initiative measure 2025-2026 #69, concerning penalties for human trafficking of a minor

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 #50, was submitted by the same designated representatives, was the subject of a memorandum dated March 21, 2025, and was discussed at a public meeting on March 26, 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. Adding knowingly trading anything of value for commercial sexual activity with a minor as a means of committing human trafficking of a minor for sexual servitude; and
2. Increasing the penalty for human trafficking of a minor for sexual servitude from a class 2 felony to a class 1 felony.

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. Existing law, in section 18-7-406 (2)(b), C.R.S., prohibits patronizing a prostituted child, which involves exchanging money or another thing of value. Patronizing a prostituted child requires acting with intent. The proposed initiative adds knowingly trading anything of value for commercial sexual activity with a minor as a means of committing human trafficking of a minor for sexual servitude. Does knowingly trading anything of value for commercial sexual activity with a minor as a means of committing human trafficking of a minor for sexual servitude cover the same conduct as patronizing a prostituted child? Is your goal to change the mental culpability required to commit an offense related to patronizing a prostituted child?

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. Nonstatutory legislative declarations follow the same format as statutory text: They include a headnote, are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs. If the text includes an introductory portion, it should be numbered, and the subsections that follow should end with semi-colons, with the second to last subsection ending in “and.” Therefore, section 1 of the proposed initiative should appear as follows:

SECTION 1. Legislative declaration. (1) The people of the state of Colorado hereby find and declare:

- (a) Residents of Colorado and other states [...];
 - (b) Current penalties in Colorado [...]; and
 - (c) It is the measure of a fair and compassionate society [...].
2. In section 1 of the proposed initiative, standard drafting practice is to spell out numbers and not include the number expressed as a numeral in parenthesis afterwards.
3. The amending clause for section 2 of the proposed initiative states that subsections (2)(a)(I) and (2)(a)(II) are being added when they are actually being amended. Additionally, section 18-3-504 (2)(a), C.R.S., currently consists of only subsections (2)(a)(I) and (2)(a)(II), so by changing those two provisions and adding (2)(a)(III), you are amending all of (2)(a). So, the amending clause should read:

In Colorado Revised Statutes, 18-3-504, **amend** (2)(a) and (2)(b); and **add** (5) and (6) as follows:
4. The sentence in section 18-3-504 (5) of the proposed initiative does not end with punctuation. Please add the appropriate punctuation.