

STATE OF COLORADO

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: March 21, 2025

Subject: Proposed initiative measure 2025-2026 #50, 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.

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 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. The following comments and questions relate to the provisions in section 1 of the proposed initiative:
 - a. Subsection(2)(a)(III) states “knowingly trading anything of value” The provisions in subsections (2)(a)(I) and (2)(a)(II) state “knowingly sells, . . . and “knowingly advertises,” Would the proponents consider changing the verb tense of “trading” to “trades” to match the verb tense in subsections (2)(a)(I) and (2)(a)(II)?
 - b. Subsection (2)(a)(III) specifies that the trade must be anything “of value.” What, in the proponents’ intent, constitutes or does not constitute “value”?
 - c. Subsection (4) appears to name section 18-3-504, C.R.S. The standard language used to name a section of law is “This section is known as” and quotes are used to set off the name of the section. Would the proponents consider conforming subsection (4) to this language? Also, section 18-3-504 (1), C.R.S., addresses human trafficking that is not specific to minors. What is the proponents’ intent with limiting the short title of this section to mention only “Colorado Children”?

3. The following comments and questions relate to the provision in section 2 of the proposed initiative:

- a. Section 2 states that the act takes effect January 1, 2027. For changes to criminal law, it is common to include an applicability clause that states:

SECTION 2. Effective date - applicability. This act takes effect January 1, 2027, and applies to offenses committed on or after said date.

Would the proponents consider adding an applicability clause?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. 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. In the amending clause for Section 1, the correct order is to first identify the provisions being amended and then identify the provisions being added. Additionally, you do not need to repeat the words “section” or “subsection” within amending clauses, and you do not need to use a zero when referencing the article number “3”. Finally, section 18-3-504 (4), C.R.S., already exists, so rather than adding a “new” (4), the final amending clause should add a new (5) and look like this:

SECTION 1. In Colorado Revised Statutes, 18-3-504, **amend** (2)(b); and **add** (2)(a)(III) and (5) as follows:

2. It is standard drafting practice to only include subsections from the Colorado Revised Statutes named in the amending clause within the body of a bill or initiative. Would the proponents consider removing subsections from Section 1 of the proposed initiative that are not changed by the proponents’ amending clause?
3. It is standard drafting practice to use SMALL CAPITAL LETTERS without underlining to show the language being added to and stricken type without underlining, which appears as ~~stricken type~~, to show language being removed from the Colorado Constitution or the Colorado Revised Statutes.

4. Section 18-3-504 (2)(a)(I), C.R.S., in the proposed initiative ends with “or” to indicate that subparagraph (I) and (II) are exclusive of each other. By adding a new subparagraph (III), the “or” in subparagraph (I) should be struck and the period after subparagraph (II) should be changed to a semicolon with “or” added after the semicolon to show each of the subparagraphs is exclusive. The amending clause should also be changed to include that (2)(a)(I) and (2)(a)(II) are being amended.