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MEMORANDUM

To: Angela Eicher and Faye Barnhart

From: Legislative Council Staff and Office of Legislative Legal Services

Date: January 19, 2026

Subject: Proposed initiative measures 2025-2026 #219, #220, #221, and #222,
Concerning Protections Prior to Birth

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.

Earlier versions of these proposed initiatives, proposed initiatives 2025-2026 #114 and #117 and proposed initiatives 2025-2026 #149 and #150, submitted by the same designated representatives, were the subject of memoranda dated July 14, 2025, and September 12, 2025, and were discussed at public meetings on July 16, 2025, and September 18, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the earlier memoranda or at the

earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiatives. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum.

Purposes

Purposes for Proposed Initiative 2025-2026 #219

The major purposes of the proposed amendment to the Colorado Constitution appear to be:

1. To establish the right of a child to continue living from the time they are conceived;
2. To ensure that the government protects a child's right to continue living after they are conceived;
3. To prohibit drugs that are used to end the lives of children;
4. To refer parents to non-violent medical care to protect all lives and resources to address individual needs;
5. To prohibit facilities that kill children from operating or advertising services for women;
6. To require that children created in a lab be implanted and be allowed a living birth;
7. To require that children are given humane care at birth that is consistent with the care given to infants;
8. To prohibit children from being used for experimentation that holds no known benefit to the child and will result in the child's death;
9. To permit medical triage by a licensed medical professional during a medical emergency;
10. To prohibit granting, and to revoke, a permit or license to any business or individual that intentionally causes the death of a child;

11. To allow civil action to be taken against any business or individual that causes the intentional death of a child; and
12. To require the award of attorneys fees and court costs to the party bringing suit on behalf of the child.

Purposes for Proposed Initiative 2025-2026 #220

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

1. To establish the right of a child to continue living from the time they are conceived;
2. To ensure that the government protects a child's right to continue living after they are conceived;
3. To prohibit drugs that are used to end the lives of children;
4. To refer parents to non-violent medical care to protect all lives and resources to address individual needs;
5. To prohibit facilities that kill children from operating or advertising services for women;
6. To require that children created in a lab be implanted and be allowed a living birth;
7. To require that children are given humane care at birth that is consistent with the care given to infants;
8. To prohibit children from being used for experimentation that holds no known benefit to the child and will result in the child's death;
9. To permit medical triage by a licensed medical professional during a medical emergency;
10. To prohibit granting, and to revoke, a permit or license to any business or individual that intentionally causes the death of a child;

11. To allow civil action to be taken against any business or individual that causes the intentional death of a child;
12. To require the award of attorneys fees and court costs to the party bringing suit on behalf of the child; and
13. To repeal the state constitutional provision that recognizes the right to abortion.

Purposes for Proposed Initiative 2025-2026 #221

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

1. To establish the right of pregnant mothers to continue pregnancy;
2. To establish the right of preborn children to continue living;
3. To ensure that the government protects the right of preborn children to continue living;
4. To prohibit drugs that are used to end the lives of children;
5. For government agencies and medical providers to refer parents to nonviolent medical care and resources;
6. To prohibit facilities that kill children from operating, profiting from killing children, or advertising services for women;
7. To encourage that children are given proper neonatal care;
8. To permit medical triage by a licensed medical professional during a medical emergency;
9. To prohibit granting, and to revoke, a permit or license to any business or individual that intentionally causes the death of a child; and
10. To allow civil action to be taken against any business or individual that causes the intentional death of a child.

Purposes for Proposed Initiative 2025-2026 #222

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

1. To establish the right of a child to continue living from the time they are conceived;
2. To ensure that the government protects a child's right to continue living after they are conceived;
3. To prohibit drugs that are used to end the lives of children;
4. To refer parents to non-violent medical care to protect all lives and resources to address individual needs;
5. To prohibit facilities that kill children from operating or advertising services for women;
6. To require that children created in a lab be implanted and be allowed a living birth;
7. To require that children are given humane care at birth that is consistent with the care given to infants;
8. To prohibit children from being used for experimentation that holds no known benefit to the child and will result in the child's death;
9. To prohibit the intentional harm of children that causes intended and untimely death;
10. To permit medical triage by a licensed medical professional during a medical emergency;
11. To prohibit granting, and to revoke, a permit or license to any business or individual that intentionally causes the death of a child;
12. To allow civil action to be taken against any business or individual that causes the intentional death of a child;
13. To require the award of attorneys fees and court costs to the party bringing suit on behalf of the child; and

14. To repeal the state constitutional provision that recognizes the right to abortion.

Substantive Comments and Questions

The substance of the proposed initiatives raises the following comments and questions for proposed initiatives 2025-2026 #219, #220, #221, and #222:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject.
 - a. What is the single subject of proposed initiative 2025-2026 #219?
 - b. What is the single subject of proposed initiative 2025-2026 #220?
 - c. What is the single subject of proposed initiative 2025-2026 #221?
 - d. What is the single subject of proposed initiative 2025-2026 #222?
2. What constitutes a child?
3. The applicability section and enforcement section of the proposed initiative have initiative section numbers but do not contain a section location in the Colorado Constitution or Colorado Revised Statutes. Are these sections intended to be enacted into law? If so, please indicate where in law they should be located. If not, what is the intended effect of the applicability and enforcement sections?
4. Who can bring the civil action described in the “enforcement” section of the proposed initiatives? Does the person bringing the action need to have a relationship with the child?
5. The following comments and questions apply to proposed initiatives 2025-2026 #219, #220, and #222:
 - a. The proposed initiatives require children created in a lab to be implanted.
 - i. What constitutes a child created in a lab?
 - ii. What is your intended impact of this provision on people using in vitro fertilization to grow their families?

- b. The proposed initiatives prohibit experimentation on children that poses no benefit to the child and will result in the death of the child. Is your intent to only cover experimentation that is knowingly unbeneficial and will knowingly cause death?
- c. It is standard drafting practice to not use a forward slash between items because it is unclear whether both are included or required, particularly when included in a list. Regarding the “fluids/nourishment” that is included in the required humane care, please either make each its own item in the list or use “and” or “or” between the two to make your intent clear.
- d. The proposed initiatives require attorneys fees and court costs to be awarded to the party bringing a case on behalf of a child.
 - i. In what cases does this apply?
 - ii. What individual or entity is required to pay the attorneys fees and court costs?
 - iii. Does this requirement apply regardless of whether the party representing a child prevails?

6. The following comments and questions apply to proposed initiatives 2025-2026 #219 and #221:

- a. How does section 33, added by these proposed initiatives, work with the constitutional right to abortion established in section 32 of the Colorado Constitution? Does the proposed section 33 conflict with section 32?

7. The following comments and questions apply to proposed initiative 2025-2026 #222:

- a. The first section of the proposed initiative is titled “definitions” yet that section does not define terms. Is this section intended to be a declaration?
- b. If you intend that this section is a part of the initiative, it should follow the enacting clause.

- c. The proposed initiative requires living children to not be intentionally harmed to cause an intended untimely death. What constitutes an untimely death?

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. The following technical comment applies to proposed initiatives 2025-2026 #219, #220, and #222:
 - a. It is standard drafting practice to use small capital letters in plain unbolted text to show the language being added to the Colorado Constitution.
2. In proposed initiative #221, the enacting clause should be before the declaration.