

**Amendment \_\_**  
**Application of the Term Person**

1 **Amendment \_\_ proposes amending the Colorado Constitution to:**

- 2     ◆ apply a constitutional right to life equally to all innocent persons;
- 3     ◆ apply the term person to a human being at any stage of development  
4         regardless of the method of creation;
- 5     ◆ prohibit the intentional killing of any innocent person;
- 6     ◆ prohibit the killing of a child created through rape or incest for the crime  
7         of his or her father; and
- 8     ◆ prohibit the use of birth control, in vitro fertilization, and assisted  
9         reproduction that kills a person.

10 **Summary and Analysis**

11           **Constitutional rights.** The Colorado Constitution's Bill of Rights states that  
12 "no person shall be deprived of life, liberty, or property, without due process of law." It  
13 also states that "all persons have certain natural, essential and inalienable rights,  
14 among which may be reckoned the right of enjoying and defending their lives and  
15 liberties; of acquiring, possessing and protecting property; and of seeking and  
16 obtaining their safety and happiness."

17           **Amendment \_\_.** Amendment \_\_ specifies that the right to life in Colorado's  
18 Constitution applies equally to all innocent persons. The measure applies the term  
19 person to a human being at any stage of development regardless of the method of  
20 creation. Neither Colorado law nor the measure defines the term innocent.

21           The measure prohibits the intentional killing of any innocent person. The  
22 measure also prohibits the killing of a child created through rape or incest for the  
23 crime of his or her father.

24           **Abortion.** By applying the term person to a human being at any stage of  
25 development, the measure extends the right to life in the Colorado Constitution to the  
26 unborn, which may impact abortions in Colorado. However, a woman's right to an  
27 abortion is protected under the U.S. Constitution. In cases concerning abortion, the  
28 U.S. Supreme Court has found that the unborn were not included in the definition of  
29 person as it is used in the U.S. Constitution and therefore do not have the same  
30 constitutional rights. In instances where the U.S. Constitution and a state constitution  
31 conflict, the U.S. Constitution prevails.

1           **Birth control.** According to the U.S. Centers for Disease Control and  
2 Prevention (CDC), there are various forms of birth control to prevent pregnancy.  
3 Barrier methods prevent sperm from entering a woman's body and include male and  
4 female condoms, diaphragms, and cervical caps. Hormonal methods of birth control  
5 release hormones into the body to prevent pregnancy and include implants, hormonal  
6 injections, oral contraceptives (also known as "the pill"), patches, and vaginal  
7 contraceptive rings. Intrauterine contraception devices, both hormonal and  
8 nonhormonal, are placed into the uterus to prevent pregnancy. Fertility  
9 awareness-based methods suggest abstaining from sex on the days the woman is  
10 fertile. There are also permanent methods of birth control that include male and  
11 female sterilization. The measure prohibits birth control that kills a person, but does  
12 not specify what forms of birth control would be prohibited.

13           **In vitro fertilization and assisted reproduction.** According to the CDC,  
14 assisted reproduction includes all fertility treatments in which both eggs and sperm are  
15 handled. The CDC also states that the most common method of assisted  
16 reproduction, known as in vitro fertilization, involves surgically removing eggs from a  
17 woman's ovaries, combining them with sperm in a laboratory, and returning them to  
18 the woman's body or donating them to another woman. Assisted reproduction does  
19 not include intrauterine or artificial insemination (treatments in which only sperm are  
20 handled), or procedures in which a woman takes medicine only to stimulate egg  
21 production. The measure prohibits the use of in vitro fertilization and assisted  
22 reproduction that kills a person, but does not specify which types of in vitro fertilization  
23 and assisted reproduction would be prohibited.

24           **Exceptions.** The measure specifies that its prohibitions do not affect medical  
25 treatment for life-threatening physical conditions when the treatment is intended to  
26 preserve life. Such medical treatments include, but are not limited to, treatments for:

- 27           ◆ cancer;
- 28           ◆ ectopic pregnancy, also known as a tubal pregnancy, a potentially  
29           life-threatening condition in which a pregnancy occurs outside of the  
30           uterus;
- 31           ◆ molar pregnancy, when tissue that normally becomes a fetus  
32           instead becomes an abnormal growth in the uterus;
- 33           ◆ twin-to-twin transfusion syndrome, a rare condition where blood  
34           moves from one twin to the other and affects the development of  
35           both twins and may result in the death of a twin; and
- 36           ◆ placenta previa, when the placenta forms low in the uterus and  
37           covers all or part of the cervix. Placenta previa can cause medical  
38           problems, including early delivery, severe bleeding, and birth  
39           defects.

40           Additionally, the prohibitions of the measure do not affect spontaneous  
41 miscarriages. The measure defines spontaneous miscarriage as the unintentional  
42 termination of a pregnancy.

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*For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2012, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

[www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html](http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html)

**Arguments For**

1) Amendment \_\_ establishes in the Colorado Constitution that all human beings at any stage of development, including those created through rape, incest, or assisted reproduction, have the right to life. It prohibits the killing of an innocent person before birth and establishes Colorado's intent to protect the unborn by ending the practice of abortion in Colorado. The government has a duty to prevent the killing of innocent human beings.

2) Amendment \_\_ provides clarity and directs the courts and the legislature to apply the term person to human beings at any stage of development regardless of the method of creation. Amendment \_\_ asserts that a constitutional right to life applies to innocent persons before and after birth. Because the Colorado Constitution's Bill of Rights does not currently contain a definition of the term "person," interpretation of the term is subjective, which leads the courts and the legislature to inconsistently apply the right to life and other rights.

**Arguments Against**

1) Amendment \_\_ allows government intrusion into the private medical decisions of individuals, families, and doctors. The measure may prohibit all abortions under Colorado law, even for victims of rape or incest, and may result in legal challenges to federal abortion rights. The measure also creates confusion for women and their doctors in determining what types of birth control and fertility treatments would be prohibited. Additionally, it is unclear who will determine whether or not a miscarriage was spontaneous, and what penalties may apply in cases where miscarriages are not spontaneous.

2) The measure does not provide sufficient guidance for health care providers regarding which medical treatments are prohibited, leaving doctors and nurses open to potential legal action for providing care to women of child-bearing age. In addition, the measure may affect a wide variety of laws, including property rights and criminal laws. Adoption of the measure could lead to lawsuits being filed on behalf of embryos used for assisted reproduction or embryonic stem-cell research.

1     **Estimate of Fiscal Impact**

2             No immediate impact to state revenue or expenditures is expected because  
3     Amendment \_\_ does not require that any specific actions be taken or services  
4     provided. However, depending on how the measure is interpreted and applied by the  
5     courts, or whether the state legislature adopts specific legislation, the measure could  
6     result in criminal offenses and penalties being created or applied in situations where  
7     unborn persons are killed. Any criminal penalties resulting from the measure could  
8     potentially increase costs for local and state law enforcement agencies, the courts,  
9     and the Department of Corrections for investigation, trials, and incarceration of  
10    individuals committing such offenses, respectively. These potential costs cannot be  
11    estimated at this time.