

**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       **Amendment \_\_.** Amendment \_\_ applies a constitutional right to life equally to  
12 all innocent persons. The measure applies the term person to a human being at any  
13 stage of development regardless of the method of creation. Neither Colorado law nor  
14 the measure defines the term innocent.

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

18       **Abortion.** By applying the term person to a human being at any stage of  
19 development, the measure applies state constitutional protections to the unborn,  
20 which may prohibit all abortions under Colorado law. This would directly conflict with  
21 current protections for abortion under the U.S. Constitution.

22       **Birth control.** According to the U.S. Centers for Disease Control and  
23 Prevention (CDC), there are various forms of birth control used to prevent pregnancy,  
24 including oral contraceptives (also known as "the pill"), condoms, and intrauterine  
25 devices (IUDs). The measure prohibits birth control that kills a person, but does not  
26 specify what forms of birth control would be prohibited.

27       **In vitro fertilization and assisted reproduction.** According to the CDC,  
28 assisted reproduction includes all fertility treatments in which both eggs and sperm are  
29 handled. The CDC also states that the most common method of assisted  
30 reproduction, known as in vitro fertilization, involves surgically removing eggs from a

1 woman's ovaries, combining them with sperm in a laboratory, and returning them to  
2 the woman's body or donating them to another woman. Assisted reproduction does  
3 not include intrauterine or artificial insemination (treatments in which only sperm are  
4 handled), or procedures in which a woman takes medicine only to stimulate egg  
5 production. The measure prohibits the use of in vitro fertilization and assisted  
6 reproduction that kills a person, but does not specify which types of in vitro fertilization  
7 and assisted reproduction would be prohibited.

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

- 11 ♦ cancer;
- 12 ♦ ectopic pregnancy, also known as a tubal pregnancy, a potentially  
13 life-threatening condition in which a pregnancy occurs outside of the  
14 uterus;
- 15 ♦ molar pregnancy, when tissue that normally becomes a fetus  
16 instead becomes an abnormal growth in the uterus;
- 17 ♦ twin-to-twin transfusion syndrome, a rare condition where blood  
18 moves from one twin to the other and affects the development of  
19 both twins and may result in the death of a twin; and
- 20 ♦ placenta previa, when the placenta forms low in the uterus and  
21 covers all or part of the cervix. Placenta previa can cause medical  
22 problems, including early delivery, severe bleeding, and birth  
23 defects.

24 Additionally, the prohibitions of the measure do not affect spontaneous  
25 miscarriages. The measure defines spontaneous miscarriage as the unintentional  
26 termination of a pregnancy.

27 *For information on those issue committees that support or oppose the*  
28 *measures on the ballot at the November 6, 2012, election, go to the*  
29 *Colorado Secretary of State's elections center web site hyperlink for*  
30 *ballot and initiative information:*  
31 [www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html](http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html)

## 32 **Arguments For**

33 1) Amendment \_\_ establishes in the Colorado Constitution that all human  
34 beings at any stage of development, including those created through rape, incest, or  
35 assisted reproduction, have the right to life. It prohibits the killing of an innocent  
36 person before birth and establishes Colorado's intent to protect the unborn by ending  
37 the practice of abortion in Colorado. One of the government's roles is to protect the  
38 lives of innocent human beings.

1           2) Amendment \_\_ directs the courts and the legislature to apply the term  
2 person to human beings at any stage of development regardless of the method of  
3 creation. Amendment \_\_ asserts that a constitutional right to life applies to innocent  
4 persons before and after birth. Because the Colorado Constitution's Bill of Rights does  
5 not currently contain a definition of the term "person," interpretation of the term is  
6 subjective, which leads the courts and the legislature to inconsistently apply the right  
7 to life and other rights. The amendment addresses this problem by clarifying how the  
8 term person is applied.

9           **Arguments Against**

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

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

24           **Estimate of Fiscal Impact**

25           No immediate impact to state revenue or spending is expected because  
26 Amendment \_\_ does not require that any specific actions be taken or services  
27 provided. However, depending on how the measure is interpreted and applied by the  
28 courts, or whether the state legislature adopts specific legislation, the measure could  
29 result in criminal offenses and penalties being created or applied in situations where  
30 unborn persons are killed. Any criminal penalties resulting from the measure could  
31 potentially increase costs for local and state law enforcement agencies, the courts,  
32 and the Department of Corrections for investigation, trials, and incarceration of  
33 individuals committing such offenses, respectively. These potential costs cannot be  
34 estimated at this time.