

Amendment 67
Definition of Person and Child

1 **Amendment 67 proposes amending the Colorado Constitution to:**

- 2 ♦ specify that the terms "person" and "child" include an unborn human
3 being under the Colorado Criminal Code and wrongful death statutes.

4 **Summary and Analysis**

5 Amendment 67 creates a constitutional provision that adds "unborn human being"
6 to the terms "person" and "child" in the Colorado Criminal Code and the wrongful
7 death statutes. The measure does not define unborn human being.

8 **Colorado Criminal Code.** The Colorado Criminal Code contains all criminal
9 offenses in state law. The Colorado Criminal Code currently defines a "person," when
10 referring to the victim of a homicide, as a human being who had been born and was
11 alive at the time of the act, and it explicitly excludes a human embryo, fetus, and an
12 unborn child at any stage of development prior to live birth. The Colorado Criminal
13 Code does not define "child."

14 **State wrongful death statutes.** State wrongful death statutes allow surviving
15 spouses, families, and estates to seek economic recourse for negligent actions
16 resulting in the death of a person. These statutes do not define "person" or "child."

17 **Laws concerning offenses against pregnant women.** Under Colorado law, it is
18 a crime to intentionally, knowingly, or recklessly terminate a woman's pregnancy,
19 including vehicular unlawful termination of a pregnancy. Colorado law defines an
20 unlawful termination of a pregnancy as the termination of a pregnancy by any means
21 other than birth or a medical procedure with the woman's consent. Pregnant women
22 and health care providers acting with the consent of a pregnant woman are exempt
23 from criminal prosecution for acts related to a woman's pregnancy. Crimes against a
24 person and offenses against a pregnant woman are categorized differently and carry
25 different penalties under current law.

26 Colorado law also allows a woman to seek economic recourse against any person
27 who intentionally, knowingly, or recklessly causes an unlawful termination of her
28 pregnancy. Colorado law states that a woman is not liable for damages for acts she
29 takes with respect to her own pregnancy, nor is a health care provider for providing
30 services. Additionally, the law explicitly excludes a human embryo, fetus, and an
31 unborn child at any stage of development prior to live birth from the definition of
32 "person."

1 **Effect of Amendment 67 on abortion and reproductive health care.** Because
2 the measure includes unborn human beings in the definition of "person" and "child,"
3 but does not define "unborn human being," the legislature may enact laws to define
4 the term. If the legislature fails to enact laws defining "unborn human being," the term
5 may be open to interpretation by the courts. Depending on how "unborn human
6 being" is defined or interpreted, pregnant women and health care providers may be
7 subject to prosecution for acts that are currently legal. The measure may impact the
8 availability of abortions under Colorado law. It may also impact the availability of other
9 medical procedures, devices, and medications that could affect unborn human beings,
10 such as certain forms of birth control or in vitro fertilization. The measure does not
11 exclude pregnant women, health care providers, or medical procedures from any
12 sections of the law.

For information on those issue committees that support or oppose the measures on the ballot at the November 4, 2014, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

13 **Arguments For**

14 1) Amendment 67 protects pregnant women and unborn children by making it
15 illegal to kill or otherwise harm an unborn human being in all circumstances and will
16 hold perpetrators both criminally and civilly liable. Current law does not go far enough;
17 crimes against unborn human beings should be subject to the same legal penalties as
18 crimes against human beings who have been born.

19 2) By including unborn human beings in the definition of "person," the measure
20 may establish the legal foundation to protect the unborn by ending the practice of
21 abortion in Colorado. In the U.S. Supreme Court decision legalizing abortion, the
22 Court found that unborn human beings were not included in the word "person" as used
23 in the U.S. Constitution. If the Colorado Constitution recognizes an unborn human
24 being as a person, the measure may allow a district attorney to prosecute abortion as
25 a homicide or child abuse and could severely limit the number of doctors willing to
26 perform abortions in Colorado.

27 **Arguments Against**

28 1) Amendment 67 is unnecessary and unclear. Government protections for
29 pregnant women already exist as the state legislature enacted laws in 2013 and 2014
30 that make it a crime to unlawfully terminate a woman's pregnancy, while respecting
31 the personal medical decisions of an individual and her health care provider. These
32 laws protect pregnant women who are endangered by the actions of others, and the
33 measure adds unnecessary confusion to this issue.

1 2) Amendment 67 allows government intrusion into the significant personal health
2 care decisions of individuals and families and makes no exceptions for the privacy of
3 the doctor-patient relationship. The measure could make pregnant women and health
4 care providers criminally and civilly liable for any pregnancy that does not result in a
5 live birth. The measure may prohibit or limit access to abortions under Colorado law,
6 including those for victims of rape, incest, or when a woman's life is in danger, and
7 could limit doctors, nurses, and pharmacists from providing certain types of medical
8 care to a woman of child-bearing age. Amendment 67 may prohibit or limit access to
9 emergency contraception, commonly used forms of birth control, and treatment for
10 miscarriages, tubal pregnancies, cancer, and infertility.