



**Colorado
Legislative
Council
Staff**

Amendment T

**FISCAL IMPACT
STATEMENT**

Date: September 1, 2016

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BALLOT TITLE: NO EXCEPTION TO INVOLUNTARY SERVITUDE PROHIBITION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
Cash Funds	Potential increase.	
State Expenditures	Potential workload increase.	
TABOR Impact		Potential increase.

Summary of Measure

Amendment T removes language that currently allows slavery and involuntary servitude to be used as punishment for the conviction of a crime.

Background

Definitions. Slavery is defined by Black’s Law Dictionary as a situation in which one person has absolute power over the life, fortune, and liberty of another person. The U.S. Supreme Court defined involuntary servitude as a condition of servitude in which one person is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

Colorado and U.S. Constitutions. The 13th Amendment to the U.S. Constitution contains the same language that is currently in the Colorado Constitution, both of which prohibit slavery and involuntary servitude except as punishment for a crime. Many other states have the same or similar language in their state constitutions, while others do not contain language regarding slavery and defer to the U.S. Constitution. The appellate courts have ruled that work requirements resulting from a conviction of a crime are allowable under the U.S. and Colorado Constitutions.

Offender work practices in the criminal justice system. Offender work practices currently used in the Colorado criminal justice system may take the following forms:

- *Prison work requirements.* All eligible offenders are expected to work unless assigned to an approved education or training program. Offenders are not required to work, but those who refuse to participate may face a reduction or loss of privileges or a delayed parole eligibility date.

- *Community service.* A judge may sentence certain offenders to work a specific number of hours providing community service in addition to or in lieu of paying fines or incarceration. Community service can be a condition of probation and at times may be the only condition.
- *Probation.* The courts may require that an offender sentenced to probation maintain suitable employment and/or pursue employment-related education or vocational training. Probation is supervised by either the Judicial Department or the City and County of Denver. The probation supervision fee for the Judicial Department is currently \$50 per month.

State Revenue

Beginning in FY 2016-17, Amendment T may impact state cash fund revenue to the Judicial Department. Should Amendment T be interpreted as prohibiting community service sentences as punishment for the conviction of a crime, it is possible that more fines may be imposed in place of community service and fewer probation fees may be collected from those currently sentenced to community service as the sole condition of probation. This analysis assumes that the overall impact will be minimal.

TABOR Impact

Amendment T may increase state cash fund revenue from fines, which may increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. No refund is expected in FY 2016-17.

State Expenditures

Beginning in FY 2016-17, Amendment T may impact the workload of several state departments. The Department of Law will handle any litigation regarding community service sentences and offender work programs, and the Department of Corrections may need to implement changes to work programs. The Judicial Department may experience an increased caseload due to legal challenges to current programs. In addition, it may experience a decrease in workload to supervise probation if fewer people are sentenced to probation as part of a community service sentence. The extent of these workload impacts will depend on the number of legal challenges and how Amendment T is interpreted by the courts.

Local Government Impact

Denver County Court. Amendment T may impact the revenue and expenditures for the Denver County Court, which is managed and funded by the City and County of Denver. There may be an increase in court costs and workload for any legal challenges regarding offender labor or community service within the jurisdiction, as well as a decrease in workload if fewer people are sentenced to probation as part of a community service sentence. In addition, it is possible that more fines may be imposed in place of community service and fewer probation fees may be collected from those currently sentenced to community service as the sole condition of probation. These impacts will depend on the number and outcomes of potential challenges, and therefore, the precise impact cannot be determined.

County jail costs. Amendment T may increase jail costs for local governments, to the extent that offenders are sentenced to jail instead of community service. The cost to house an inmate in a county jail varies from about \$53 to \$114 per day. The state reimburses county jails \$52.74 per day to house state inmates. Because the courts have the discretion of incarceration or imposing a fine, the precise impact cannot be determined at this time.

Effective Date

Amendment T takes effect after the date of the official declaration of the vote by proclamation of the Governor, not later than 30 days after the votes have been canvassed.

State and Local Government Contacts

Corrections

Law

Judicial