Amendment T proposes amending the Colorado Constitution to:

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

Summary and Analysis

Definitions. "Slavery," as defined by Black's Law Dictionary, is a situation in which one person has absolute power over the life, fortune, and liberty of another person. The U.S. Supreme Court has 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.

U.S. and Colorado Constitutions. The 13th Amendment to the U.S. Constitution was passed in 1865 to prohibit slavery and involuntary servitude, except as punishment for a crime for which a person has been found guilty. The amendment gives the U.S. Congress the power to enforce the amendment through legislation.

Similar to the U.S. Constitution, under Article II, Section 26 of the Colorado Constitution, slavery and involuntary servitude are prohibited, except as punishment for the conviction of a crime. Amendment T removes this exception.

Offender work requirements in the criminal justice system. The courts have ruled that work requirements resulting from a conviction of a crime are allowable under the above provisions of the U.S. and Colorado Constitutions. Offender work requirements 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 in 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. These programs emphasize individual restitution for offenses through contributions to the community. In some cases, community service is a condition of probation.
Probation. The courts require that an offender sentenced to probation maintain suitable employment and/or pursue employment-related education or vocational training.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2016, 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

Argument For

1) The section of the Colorado Constitution that allows slavery and involuntary servitude as punishment for a crime should be updated because it represents a time in the United States when not all people were seen as human beings or treated with dignity. Removing the language reflects fundamental values of freedom and equality, and makes an important symbolic statement. There are 25 other states that do not have any language related to slavery and involuntary servitude in their constitutions, and both prison work and community service programs are able to operate within those states.

Argument Against

1) Amendment T may result in legal uncertainty around current offender work practices in the state. Prison work requirements provide structure and purpose for offenders, while enabling skill building and helping to reduce recidivism. Community service programs allow offenders to engage with the community and make amends for their crimes.

Estimate of Fiscal Impact

State revenue and spending. Amendment T may impact both state revenue and spending. Should Amendment T be interpreted as prohibiting community service sentences, 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. Amendment T may also impact costs and workload for the Department of Law, Department of Corrections, and Judicial Department due to potential legal challenges.

Local government impact. Amendment T may increase jail and county court costs for local governments and impact revenue and workload for the City and County of Denver due to potential legal challenges.