

**Amendment 43
Marriage**

1 **Amendment 43 proposes a change to Article II of the Colorado Constitution that:**

- 2 ♦ defines marriage in Colorado as only a union between one man and one
3 woman.

4 **Summary and Analysis**

5 *Definitions of marriage affecting Coloradans.* Federal statutes define marriage
6 as a legal union between one man and one woman for purposes of all federal laws relating
7 to marital status. Colorado statutes define marriage as a legal union between one man and
8 one woman for purposes of the state's laws relating to marital status.

9 For a marriage to be valid under Colorado statutes, it must be: (1) between a man
10 and a woman; and (2) licensed, solemnized, and registered according to established
11 procedures. In addition, Colorado recognizes common law marriage between a man and
12 a woman who live together and hold themselves out publicly as husband and wife.
13 Common law marriages are treated exactly the same as licensed marriages.

14 *Legal effects of marriage in Colorado.* The marriage relationship in Colorado
15 provides spouses with a number of legal rights, responsibilities, and benefits, including:

- 16 • collecting benefits such as pensions, life insurance, and workers' compensation
17 without being designated as a beneficiary;
18 • jointly incurring and being held liable for debts;
19 • making medical treatment decisions for each other;
20 • protection from discrimination based on marital status in areas such as
21 employment and housing;
22 • filing income taxes jointly; and
23 • ending a marriage and distributing property through a legal process.

24 **Arguments For**

25 1) The public has an interest in preserving the commonly accepted definition of
26 marriage. Marriage as an institution has historically consisted of one man and one woman
27 and, as such, provides the optimal environment for creating, nurturing, and protecting
28 children and preserving families.

1 2) A constitutional amendment is necessary to avoid court rulings that expand
2 marriage beyond one man and one woman in Colorado. In Massachusetts, a statutory
3 definition was not sufficient to prevent a court from requiring the state to recognize
4 same-sex marriages. Any change to the definition of marriage should be determined by the
5 voters, not judges.

6 **Arguments Against**

7 1) Language that limits marriage to opposite-sex couples does not belong in
8 Colorado's Bill of Rights, which generally guarantees individual rights. Amendment 43
9 may be unconstitutional because it denies same-sex couples and their children the legal
10 benefits and protections that are available to married couples and their children.

11 2) Adding the proposed language to the constitution is unnecessary because there
12 is already a statutory ban in Colorado on any marriage that does not consist of one man and
13 one woman. Additionally, federal statutes define marriage as between one man and one
14 woman for purposes of federal laws.

15 **Estimate of Fiscal Impact**

16 Amendment 43 is not expected to affect state and local revenues or spending.
17 Costs that may result from potential legal challenges to the amendment cannot be
18 estimated.