

**Amendment 62  
Definition Of Person**

1 **Amendment 62 proposes amending the Colorado Constitution to:**

- 2       ♦ define the term "person" to "apply to every human being from the  
3       beginning of the biological development of that human being"; and
- 4       ♦ apply this definition of person to the sections of the Colorado  
5       Constitution that protect the natural and essential rights of persons,  
6       allow open access to courts for every person, and ensure that no  
7       person has his or her life, liberty, or property taken away without due  
8       process of law.

9 **Summary and Analysis**

10       Like the U.S. Constitution, the Colorado Constitution has a bill of rights. The  
11       Colorado bill of rights contains the rights and duties of the people of Colorado and  
12       outlines the principles of state government. Amendment 62 defines the term "person"  
13       for sections 3, 6, and 25 of the Colorado bill of rights. These sections concern  
14       inalienable rights, equality of justice, and due process of law.

15       ***Inalienable rights.*** Section 3 asserts that all persons have natural, essential, and  
16       inalienable rights to enjoy life and liberty, to acquire, possess, and protect property,  
17       and to seek and obtain safety and happiness. These rights include the right to defend  
18       against threats to safety, the freedom to make independent decisions, the right to  
19       work and obtain economic goods, and the right to survive. Inalienable rights are  
20       fundamental to all humans and are not created by laws and government. The  
21       constitution requires that the government protect these rights, although the  
22       government is permitted to limit the exercise of rights as necessary for the public  
23       welfare.

24       The constitutional provision regarding inalienable rights has been applied by  
25       courts, for example, to guarantee the right of an individual to pursue a legitimate trade  
26       or business, to acquire property without fear of discrimination, and to travel freely  
27       around the state.

28       ***Equality of justice.*** Section 6 requires the courts in Colorado to be open to all  
29       persons. If a person's legal rights are violated, this section guarantees that a judicial  
30       remedy is available.

31       Courts have determined that this section applies to a variety of circumstances. For  
32       instance, individuals are denied equal access to justice if juries are chosen in a  
33       discriminatory manner. Additionally, all persons have the same right to use the courts  
34       regardless of their financial resources.

1        **Due process of law.** Section 25 ensures that no person is deprived of life, liberty,  
2 or property without due process of law. Due process of law requires the government  
3 to follow consistent procedures before a person's fundamental rights are taken away.  
4 The courts have determined, for example, that due process requires the government  
5 to provide notice and a fair hearing before detaining a person, taking a person's  
6 property, or sentencing a person to death.

7        **Definition of the term "person."** The Colorado bill of rights does not currently  
8 contain a definition of person. Amendment 62 defines person to include a human  
9 being from the beginning of the biological development of that human being. It  
10 extends inalienable rights, equal access to justice, and due process of law prior to  
11 birth. The measure does not define the phrase "beginning of biological development".  
12 This phrase has no established legal meaning, and is not considered a commonly  
13 accepted medical or scientific term.

#### 14        **Arguments For**

15        1) Amendment 62 ensures that all human life, is afforded fair and equal  
16 treatment. Currently, these rights are not recognized until birth. Amendment 62  
17 acknowledges that a new human life is created at the beginning of biological  
18 development and gives all human life, whether born or unborn, equal rights and  
19 protections.

20        2) The measure may establish the legal foundation to end the practice of abortion  
21 in Colorado. The U.S. Supreme Court decision that legalized abortion in the  
22 United States found that the unborn were not included in the word "person" as used in  
23 the U.S. Constitution. If each human life, from the beginning of biological  
24 development, is recognized as a person under Colorado's bill of rights, Amendment 62  
25 may provide support for legal challenges to prohibit abortions in Colorado.

26        3) Amendment 62 gives direction to the courts and the legislature about who is  
27 considered a person. Because the bill of rights does not currently contain a definition  
28 of the term "person," interpretation of the word is subjective, which may lead to the  
29 rights granted by the constitution being inconsistently applied. The measure ensures  
30 uniform application of the term "person" under the law.

#### 31        **Arguments Against**

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33        1) Amendment 62 allows government interference in the doctor-patient  
34 relationship. The measure could be used to prohibit or limit access to medical care,  
35 including abortions, emergency contraception, commonly used forms of birth control,  
36 and treatments for cancer, tubal pregnancies, and infertility. The amendment may  
37 restrict some stem cell research that could lead to life-saving therapies for a variety of  
38 disabilities and illnesses.

1           2) Amendment 62 requires that legal rights apply equally to all human beings  
2 from the beginning of biological development, but does not address whose rights take  
3 precedence when there is a conflict. Deciding whose rights are more important may  
4 fall to government officials or the courts and could result in the loss of a woman's right  
5 to make her own life choices.

6           3) Amendment 62 is more complex than adding a definition to the state  
7 constitution. Creating a definition of the word "person" in the constitution could impact  
8 many existing state laws containing the term. By defining the term "person" using  
9 non-medical language, the courts and the legislature will have to determine how to  
10 apply the new definition to a wide variety of laws, including property rights and criminal  
11 laws.

## 12       **Estimate of Fiscal Impact**

13           No immediate impact to state revenue or expenditures is expected because  
14 Amendment 62 does not require that any specific actions be taken or services  
15 provided. If legislation is adopted, or the courts determine that the measure requires  
16 the state to provide new services, state spending may increase.