

**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  
18       survive, the right to defend against threats to safety, the freedom to make  
19       independent decisions, and the right to work and obtain economic goods. Inalienable  
20       rights are fundamental to all humans and are not created by laws and government.  
21       The constitution requires that the government protect these rights, although the  
22       government is permitted to limit the exercise of rights as necessary for the welfare and  
23       general security of the public.

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. By defining "person," Amendment 62 extends  
9 inalienable rights, equal access to justice, and due process of law from the beginning  
10 of biological development. The measure does not define the phrase "the beginning of  
11 biological development."

## 12        **Arguments For**

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

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

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

## 28        **Arguments Against**

29        1) Amendment 62 allows government intrusion in the privacy of the doctor-patient  
30 relationship and could limit the exercise of independent medical judgment. The  
31 measure could restrict a doctor from using certain medical procedures and treatments.  
32 Further, the measure may subject medical professionals to legal action for providing  
33 medical care to a woman of child-bearing age if it is determined to affect another  
34 "person."

35        2) Amendment 62 is more complex than adding a definition of "person" to the  
36 state constitution. The measure's definition of "person" includes the term "beginning  
37 of biological development," which is not defined within the measure, has no  
38 established legal meaning, and is not an accepted medical or scientific term. The

1 legislature and the courts will have to determine how to interpret the new definition of  
2 "person" and how to apply it to a wide variety of laws, including property rights and  
3 criminal laws.

4 3) Amendment 62 may limit the ability of individuals to make private, personal  
5 choices about their lives and health. The measure could be used to prohibit or limit  
6 access to medical care, including abortions even for victims of rape or incest, or when  
7 a woman's life is in danger. Amendment 62 may also limit access to emergency  
8 contraception, commonly used forms of birth control, and treatment for miscarriages,  
9 tubal pregnancies, cancer, and infertility. The amendment may restrict some stem cell  
10 research that could lead to life-saving therapies for a variety of disabilities and  
11 illnesses.

## 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.