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Original Typewritten Draft of Initiative #114

Colorado Secretary of State

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In the constitution of the state of Colorado, **amend** section 31 of article II as follows:

**Section 31. Civil Unions and Marriages.** ~~Only a union of one man and one woman shall be valid or recognized as a marriage in this state.~~ THE STATE OF COLORADO SHALL RESPECT THE ESTABLISHMENT, EQUAL PROTECTION, AND DUE PROCESS CLAUSES OF THE U.S. CONSTITUTION FOR ISSUES CONCERNING CIVIL UNIONS AND MARRIAGES.

**SECTION 2.** In Colorado Revised Statutes, **add** article 16 of title 14 as follows:

**14-16-101. Short title.** THIS ARTICLE IS KNOWN AS THE "MARRIAGE AND ESTABLISHMENT CLAUSE ACT".

**14-16-102. Purpose and findings.**

**(1) Applicability of the equal protection and due process clauses of the U.S. Constitution to ensure equality for all couples.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT A SAME-SEX COUPLE AND AN OPPOSITE-SEX COUPLE ARE ENTITLED TO THE SAME RIGHTS, PROTECTIONS, AND BENEFITS UNDER THE LAW THAT ARE SECURED BY THE EQUAL PROTECTION AND DUE PROCESS CLAUSES OF THE U.S. CONSTITUTION.

**(2) Relevance of marriage to religious authorities and beliefs.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE WORD "MARRIAGE" OCCURS WITHIN VARIOUS RELIGIOUS AUTHORITIES AND THAT MANY CITIZENS HOLD VIEWS ON MARRIAGE THAT INVOLVE THEIR PERSONAL RELIGIOUS BELIEFS, INCLUDING THOSE RELIGIOUS BELIEFS THAT SUPPORT A SAME-SEX MARRIAGE AND THOSE RELIGIOUS BELIEFS THAT OPPOSE A SAME-SEX MARRIAGE.

**(3) Applicability of the establishment clause of the U.S. Constitution to thwart religious intolerance.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT RELIGIOUS INTOLERANCE AND THE HOSTILITY IT FOSTERS IS A DESTRUCTIVE FORCE IN SOCIETY, AND THE DANGER OF RELIGIOUS INTOLERANCE OCCURS WHEN A GOVERNMENT FAVORS OR DISFAVORS AN ISSUE INVOLVING RELIGIOUS BELIEFS. THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT THE STATE AND ANY LOCAL GOVERNMENT, INCLUDING A COUNTY, A MUNICIPALITY, AND A CITY AND COUNTY, COMPLY WITH THE ESTABLISHMENT CLAUSE OF THE U.S. CONSTITUTION BY MAINTAINING A POSITION OF NEUTRALITY ON THE DEFINITION OF MARRIAGE.

**(4) The individual liberty associated with the institution of marriage.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE INSTITUTION OF MARRIAGE INVOLVES A FORM OF INDIVIDUAL EXPRESSION, WHETHER SECULAR OR RELIGIOUS, AND A

GOVERNMENT WITHIN A FREE SOCIETY PRINCIPALLY AFFORDS ITS CITIZENS THE LIBERTY TO FREELY EXPRESS THEMSELVES ACCORDING TO THEIR OWN BELIEFS.

**14-16-103. The authority granted to the state or a local government to govern a union of a couple.**

(1) **Protecting individual liberty by limiting government authority.** THE INDIVIDUAL LIBERTY TO DEFINE A MARRIAGE ACCORDING TO A PERSON'S INDIVIDUAL BELIEFS SHALL NOT BE ABRIDGED BY THE STATE OR A LOCAL GOVERNMENT PRESCRIBING OR RECOGNIZING ANY LAW THAT IMPLICITLY OR EXPLICITLY DEFINES THE WORD "MARRIAGE."

(2) **Legislative and administrative authority.** (a) THE LEGISLATURE AND ANY ADMINISTRATIVE AGENCY OF THE STATE OR A LOCAL GOVERNMENT MAY PRESCRIBE ANY LAW OR RULE THAT GOVERNS A CIVIL UNION BETWEEN A SAME-SEX COUPLE OR BETWEEN AN OPPOSITE-SEX COUPLE.

(b) ALL LAWS OR RULES INCONSISTENT WITH THIS ARTICLE OR SECTION 31 OF ARTICLE II OF THE COLORADO CONSTITUTION SHALL BE AMENDED OR REPEALED TO REMEDY ANY INCONSISTENCY.

(3) **Judicial, executive, and other governmental authority.** THE JUDICIARY, THE EXECUTIVE, AND ANY OTHER GOVERNMENTAL AUTHORITY OF THE STATE OR A LOCAL GOVERNMENT SHALL RECOGNIZE A MARRIAGE ESTABLISHED IN THE STATE OF COLORADO BEFORE THE EFFECTIVE DATE OF THIS ARTICLE OR A MARRIAGE ESTABLISHED OUTSIDE THE STATE OF COLORADO AS A CIVIL UNION.

**14-16-104. The effect of this article on a legal right, protection, benefit, or obligation.** OTHER THAN SECURING FOR THE PEOPLE THE INDIVIDUAL LIBERTY TO DEFINE A MARRIAGE ACCORDING TO THEIR OWN BELIEFS, NOTHING WITHIN THIS ARTICLE SHALL BE CONSTRUED TO:

(1) INCREASE OR DECREASE A LEGAL RIGHT, PROTECTION, OR BENEFIT OWED TO AN INDIVIDUAL THROUGH AN OPERATION OF THE LAW; OR

(2) INCREASE OR DECREASE A LEGAL OBLIGATION OWED BY AN INDIVIDUAL, THE STATE, A LOCAL GOVERNMENT, OR ANY OTHER ENTITY THROUGH AN OPERATION OF THE LAW.

**14-16-105. Severability.** IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE DECLARED TO BE SEVERABLE.

**SECTION 3. Effective date – applicability.** These voter enacted provisions shall take effect on July 1, 2017.