

February 23, 2022

Ballot Title Setting Board
c/o Jena Griswold
Colorado Secretary of State
1700 Broadway, Suite 200
Denver, CO 80209

Motion for Rehearing re: Proposed Initiative 2021-2022 #56 (“Unlawful Murder of a Child”)

Dear Ballot Title Setting Board:

I am a registered elector in the State of Colorado, and I hereby respectfully submit this Motion for Rehearing regarding Proposed Initiative 2021-2022 #56. The title, ballot title, and submission clause were set for this initiative at the meeting of the Title Board on February 16, 2022.

1. The title, ballot title and submission clause are unclear and misleading and do not express the true meaning and intent of the measure:

The title states that the initiative would “mak[e] it illegal to murder a child under eighteen years of age at any time prior to, during, or after birth.” It is already illegal to “murder” any person under eighteen years of age pursuant to C.R.S. §§18-3-102 and 18-3-103 – which sections specify elements of and defenses to the crime of “murder.” It is not clear from the title whether the initiative is intended to incorporate or supplant the existing statutory elements and defenses as applicable to “murder” of a “child” “prior to . . . birth,” nor whether any of the privileges or other aspects of those existing sections would be applicable. Additionally, the title is not clear – and is in fact facially misleading – by not clearly disclosing that the primary subject of the measure is to criminalize terminations and preventions of pregnancies.

2. The title, ballot title and submission clause contain a catch phrase:

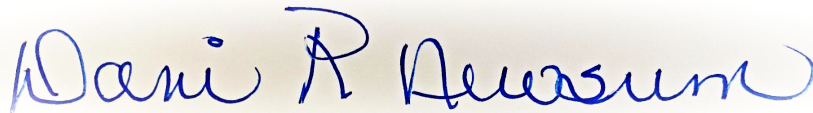
The title refers to the termination or prevention of a pregnancy as “murder” of a “child.” While the proponents may use whatever terminology they see fit in the text of their measure, the Title Board may not incorporate into the title language that draws attention to itself, creates prejudice in favor of the measure, and does not contribute to voter understanding. *In re Title, Ballot Title & Submission Clause, and Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100

(Colo. 2000). The fact that the language in question appears in the text of the measure itself does not permit its incorporation into the title. *Id.* Referring in the title to presently-legal actions sought to be newly prohibited by the measure as “murder” of a “child” (1) does not contribute to (and in fact diverts from) voter understanding, (2) serves only to elicit an emotional response, and (3) serves as nothing more than an inflammatory basis for a campaign slogan.

3. The initiative contains more than a single subject:

While the purpose of the proponents may be to criminalize terminations and preventions of pregnancies, their initiative addresses “causing the death of a living human being at any time prior to, during, or after birth *until reaching age 18*” (emphasis added). Much of this time frame is already addressed by current statutes and a developed body of law – and the measure by its terms supplements or supplants (it is not wholly clear) all or portions of that. To the extent the measure newly criminalizes (and provides defenses and exceptions for) actions causing death “prior to” birth, that is a new, highly controversial, additional subject of the initiative.

Respectfully submitted:



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