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Colorado General Assembly

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MEMORANDUM

TO: Lori Gimelshteyn and Erin Lee

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: March 4, 2024

SUBJECT: Proposed Initiative Measure 2023-2024 #207, concerning Parental Consent for Health Care Treatment of a Child

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purpose

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to prohibit a mental or medical health-care provider, practitioner, or facility from providing, soliciting, or arranging for diagnosis, treatment, or intervention for a child without first consulting with and obtaining written or documented consent from at least one of the child's parents, except in limited circumstances.

Substantive Comments and Questions

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. The proposed initiative uses the terms "diagnosis," "treatment," and "intervention," any of which would require parental consent. Would the proponents consider defining the terms?
3. In section 19-1-132 (2), the proposed initiative requires written or documented consent. What constitutes documented consent? Would the proponents consider defining it?
4. The proposed initiative allows a mental or medical health-care provider to provide a diagnosis, treatment, or intervention after receiving consent from one of the child's parents. What happens if a different parent objects to the diagnosis, treatment, or intervention?

Technical Comments

1. Each new sentence should start with a capital letter.
2. In Section 1 of the proposed initiative, the definitions subsection should be number (2), and each succeeding subsection should be renumbered accordingly.
3. In Section 1 of the proposed initiative, some of the subsection numbers are in **bold** font but should appear in normal font.
4. In the legislative declaration, the word "State" should not be capitalized.
5. In the definitions subsection, the term "medical emergency" should be initially capitalized so it appears "Medical emergency."
6. In subsections (2) and (3)(b) of the proposed initiative, there are terms capitalized in the middle of the sentence. In subsection (2), "Without" is capitalized, and in subsection (3)(b), "The" is capitalized. It is not customary nor standard drafting practice to place capitalized words in the middle of the sentence.

7. In subsection (3)(b) of the proposed initiative, the term "parent(s)'s" includes parentheses. It is standard drafting practice to only refer to the singular form.