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Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Steven Ward

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: March 28, 2023

SUBJECT: Proposed initiative measure 2023-2024 #30, concerning eligibility for parole

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.

An earlier version of this proposed initiative, proposed initiative 2023-2024 #20, was the subject of a memorandum dated February 28, 2023. Proposed initiative 2023-2024 #20 was discussed at a public meeting on March 1, 2023. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:

1. To require a person sentenced for second degree murder; first degree assault; class 2 felony kidnapping; sexual assault under part 4 of article 3 of title 18, Colorado Revised Statutes; first degree arson; first degree burglary; or aggravated robbery, committed on or after January 1, 2025, to serve eighty-five percent of the person's sentence before the person is eligible for parole; and
2. To require a person sentenced for second degree murder; first degree assault; class 2 felony kidnapping; sexual assault under part 4 of article 3 of title 18, Colorado Revised Statutes; first degree arson; first degree burglary; or aggravated robbery, convicted and sentenced on or after January 1, 2025, who has twice previously been convicted of a crime of violence, to serve the full sentence imposed.

Substantive Comments and Questions

The substance of the proposed initiative raises the following 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. In section 17-22.5-303.3 (1) of the proposed initiative, one of the crimes subject to parole eligibility after a person serves seventy-five percent of the person's sentence is first degree kidnapping, unless the first degree kidnapping is a class 1 felony. In section 17-22.5-303.3 (2) of the proposed initiative, class 2 felony kidnapping is subject to parole eligibility after serving eighty-five percent of the person's sentence. Under current law, a class 2 felony kidnapping charge applies to a first degree kidnapping pursuant to section 18-3-301 (3), Colorado Revised Statutes, and second degree kidnapping pursuant to the circumstances in section 18-3-302 (3), Colorado Revised Statutes. Is it the proponents' intent to subject second degree kidnapping pursuant to section 18-3-302 (3), Colorado Revised Statutes, committed on or after January 1, 2025, to parole eligibility after serving eighty-five percent of the person's sentence even though those crimes were not subject to the parole eligibility after serving seventy-five percent of the person's sentence for crimes committed after July 1, 1987, but before January 1, 2025?

3. In section 17-22.5-303.3 (1) of the proposed initiative, the list of crimes subject to parole eligibility after serving seventy-five percent of a sentence is triggered when the offense is committed on or after July 1, 1987, but before January 1, 2025. In section 17-22.5-303.3 (3) of the proposed initiative, the same list of crimes as in section 17-22.5-303.3 (1) of the proposed initiative requires a person convicted of one of those crimes who has twice been previously convicted for a crime of violence to serve the sentence imposed less any earned time awarded. The triggering event for this provision is a conviction and sentencing before January 1, 2025. What is the proponents' intent in having the two provisions have different triggering events?
4. In section 17-22.5-303.3 (2) of the proposed initiative, the list of crimes subject to parole eligibility after serving eighty-five percent of a sentence is triggered when the offense is committed on or after January 1, 2025. In section 17-22.5-303.3 (4) of the proposed initiative, the same list of crimes as in section 17-22.5-303.3 (2) of the proposed initiative requires a person convicted of one of those crimes who has twice been previously convicted for a crime of violence to serve the full sentence imposed. The triggering event for this provision is a person convicted and sentenced on or after January 1, 2025. What is the proponents' intent in having the two provisions have different triggering events?