



### **SUMMARY**

A constitutional amendment has been proposed for the 2008 ballot that would establish legal personhood from the moment of fertilization. Proponents of the initiative have been clear that their intent is to establish a mechanism to prohibit abortion by granting certain legal rights from the moment of fertilization. Changing Colorado's constitution to grant fertilized eggs the same rights as people could have far-reaching consequences beyond banning abortion, including prohibiting use of the most effective forms of birth control, restricting in-vitro fertilization, curbing embryonic stem cell research, and fundamentally altering provision and regulation of age-based rights and benefits, such as eligibility to vote, purchase tobacco and alcohol, enlist in the military, receive Social Security benefits, and more.

### **WHAT THE INITIATIVE SAYS**

Title  
An amendment to the Colorado constitution defining the term "person" to include any human being from the moment of fertilization as "person" is used in those provisions of the Colorado constitution relating to inalienable rights, equality of justice, and due process of law.

Language of the Initiative  
Section 1. Article II of the constitution of the state of Colorado is amended by the addition of a new section to read: Section 31: Person defined. As used in sections 3, 6, and 25 of Article II of the state constitution, the terms "person" or "persons" shall include any human being from the moment of fertilization.

### **EFFECT OF CHANGE**

Substituting the language as proposed in this initiative, the rights defined in Colorado's constitution would be as follows:

Article II, Section 3. Inalienable Rights. All persons, including any human beings from the moment of fertilization, have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

Article II, Section 6. Equality of Justice. Courts of justice shall be open to every person, including any human being from the moment of fertilization, and a speedy remedy afforded for every injury to person, including any human being from the moment of fertilization, property or character; and right and justice should be administered without sale, denial or delay.

Article II, Section 25. Due Process of Law. No person, including any human being from the moment of fertilization, shall be deprived of life, liberty or property, without due process of law.

### **IMPACT ON REPRODUCTIVE HEALTH IN COLORADO**

Proponents of the initiative have been clear that their intent is to grant certain rights to fertilized eggs in an effort to make *all* abortion illegal. Their intent is to establish a legal framework through which to challenge *Roe v. Wade*. However, this initiative could impact much more than a woman's right to privacy when choosing abortion, including:

- Increasing unintended and unwanted pregnancies in Colorado – The most effective forms of birth control like the pill, injectibles like Implanon and Depo-Provera, NuvaRing, the patch, and IUDs alter the lining of a woman's uterine wall in a way that makes it inhospitable to fertilized eggs, thereby inhibiting implantation of a fertilized egg and preventing a pregnancy from occurring.

- Unanswered questions: How does extending the right to life to fertilized eggs affect a woman's legal right to use birth control methods that can inhibit implantation? How does it affect pharmacies' ability to sell birth control?
- Severely restricting assisted reproductive technology – One of the most common forms of assisted reproductive technology is in-vitro fertilization, where several fertilized eggs are created in a lab environment. Once created, some of fertilized eggs are injected into a woman's body with the hope that implantation will occur and the woman's body will begin producing the hormones necessary to sustain a pregnancy. Because of the cost of this procedure, more fertilized eggs are usually produced than are injected.
  - Unanswered questions: What will be the ramifications for fertilized eggs that have been created through a lab environment but have not been transferred to a woman's uterus? Could patients' medical records be subpoenaed to ensure none of the eggs' constitutionally guaranteed right to life was violated?
- Ignoring the reality of miscarriages and non-implantation -- This initiative and its proponents are silent on the reality of miscarriages (both when a woman is aware of being pregnant and when she is not) and non-implantation – even when a woman is not using a contraceptive method that can inhibit implantation. The American College of Obstetricians and Gynecologists estimate that between one-third and one-half of all fertilized eggs never fully implant.
  - Unanswered question: Would this initiative open the door for criminal investigations and charges on behalf of the miscarried fetus or the fertilized egg that did not implant?
- Subjecting women facing ectopic pregnancies to government interference – Ectopic pregnancies occur when a fertilized egg implants outside of the uterus, such as in the fallopian tube or cervix. Because the location of implantation is not large enough to allow full gestation of the developing fetus, an ectopic pregnancy could result in the rupture of the fallopian tube, cervix, or other organ where implantation occurred if the pregnancy is not removed.
  - Unanswered question: Would this initiative mean Colorado women who face an ectopic pregnancy would need judicial approval to demonstrate removal of the life-threatening pregnancy does not violate the constitutionally guaranteed right to life of the ectopic fetus, embryo, zygote or fertilized egg?

Under the language of this initiative, Colorado's Constitution would be changed to extend certain rights from the moment of fertilization in all instances. The proposed initiative leaves no room for exceptions to consider the situations above; nor does it include explanatory language that would direct lawmakers, when crafting implementing legislation in good faith, to carve out reproductive-health exceptions or to create "situations of lesser entitlement" for the above circumstances.

FOR MORE INFORMATION, CONTACT NARAL PRO-CHOICE COLORADO DEPUTY DIRECTOR TONI PANETTA AT (303) 394-1973 EXT 17 OR [TPANETTA@PROCHOICECOLORADO.ORG](mailto:TPANETTA@PROCHOICECOLORADO.ORG)