

Building a Future worth Handing Down



A Proposed “Fair Start” Amendment to Colorado’s State Constitution



HAVING KIDS.

Planning a fair start

The Model

Introduction

Having Kids focuses on changing the way we approach family planning in order to **reduce inequality, eliminate child abuse, promote participatory democracy, and protect our natural environment**. We believe that communities who support better family planning can provide greater well-being for all kids and lay the path for an economically and environmentally sustainable future. Inherently, Having Kids understands that we cannot achieve true equity unless we preserve and restore the natural environment, so the planet can support future generations. We therefore advocate for policies that confront climate change and other threats to our natural world, while encouraging families to put less demand on our shared ecology and resources.

Having Kids support a “fair start” family planning model that not only considers what parents *want* but also accounts for what children *need*. We work tirelessly to ensure that governments connect parents with the resources they need to plan and raise their families, and we lobby local, state, and national governments to adopt policies that support access to education, health care, and other social support services that promote equity and give all children a fair start in life.

In order to involve families, communities, and governments alike in advancing the welfare of parents, children, and the planet, **Having Kids proposes amending the Colorado Constitution to reflect fair start values**. Colorado’s constitution provides a foundation for the rights of all Coloradans and offers the opportunity to secure even greater protections for our citizens than those enumerated in the U.S. Constitution. But the Colorado Constitution is currently out of date. Without explicit protections for Coloradans of all races, abilities, ages, sexual orientations and gender identities, the Constitution currently fails to signal its inclusion of all of the state’s citizens.



Current Proposal

Amending the Colorado Constitution

The Colorado Constitution is silent on pressing issues regarding reducing inequities faced by children and protecting the natural world that we all share for the benefit of future generations. Given the importance of Colorado’s wilderness, wildlife, and climate to its citizens’ physical, mental, and economic wellbeing, Having Kids believes that Colorado should follow in the footsteps of eight other states and explicitly include environmental protection in the Colorado Constitution. Because any change to the Constitution requires a vote of the people, the process of amending the Constitution provides a valuable opportunity to engage with individual citizens across the state as we think about—and put into writing—shared values.



Proposed Amendment

Having Kids recommends amending Article II, Section 3 (Inalienable Rights) to read as follows:

All persons **are born free and equal with** 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; of seeking and obtaining their safety and happiness; **of freedom and equality from the moment of birth, of healthy development, of equal economic opportunity, and of protection of the environment restored to its heritage state.**

Equality under the law shall not be denied or abridged because of sex, race, color, creed, national origin, sexual orientation, age, or gender identity.

All public lands and the natural resources present thereon, including the land, water, air, and animals, are held in trust by the State for the benefit of the people of Colorado and shall be protected for the benefit of present and future generations as whole, intact ecosystems.

Any person may enforce these rights against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

Text in green reflects proposed new language while black text reflects existing language

One Amendment – Three Key Rights

Having Kids believes that every child deserves a right to freedom and equality that begins at birth. In other words, a fair start in life. A fair start includes access to the educational, health care, financial, environmental, and psycho-social resources needed to provide each child with a foundation for success. The language of “fair start” is intentionally broad, allowing it to evolve to address the unique needs and opportunities presented to future generations. To work, a fair start

must include the restoration of our environment to ensure future generations have opportunity for the natural education they need to fully develop and thrive.ⁱ

Amendment 1, Section 3 refers to Inalienable Rights, or rights that cannot be taken away from an individual. This section of the Constitution is the appropriate place for an amendment that reflects fair start values, since the proposed changes includes rights that cannot be surrendered, sold, or transferred to someone else. The proposed amendment adds recognition of a right to equality at birth, which includes:

- The right to healthy development;
- The right to equal economic opportunities;
- The right to an environment restored to its heritage state.

Enumerating the right to equality at birth – and by extension, the rights to healthy development, equal economic opportunities, and wilderness – would embody a collective decision to ensure that all children are provided with the tools necessary to succeed. In turn, doing so reflects a commitment to making decisions today based not just on our own immediate desires, but on a commitment for future generations to thrive.

In today’s highly politicized environment, it can feel like Americans have grown accustomed to the notion that the right to autonomy conflicts with the right to equality. That is, politics and culture seemingly suggest that Americans cannot enjoy both, as the rights are mutually exclusive. Having Kids rejects that view. We believe the country can unite around the incorporation of the Fair Start Model, which envisions a country where all children are equal at birth, which means societal (and government!) investment in childhood equality, which ensures autonomy in adulthood. There can be no doubt that if we ignore a child’s right to equality, we do so to the detriment of future generations.

The background and reasoning for including each of these rights is described in detailed below.

The Right to Healthy Development

Healthy psychological and brain development requires special protections and opportunities for building cognitive, emotional, and social skills that allow children to thrive throughout their lifetimes. Research across multiple disciplines including psychology, sociology, nursing, public health, social work, and medicine demonstrates that enhancing positive factors in the lives of children, such as connectedness to family, school, and community, can reduce the likelihood that children will engage in a number of health-jeopardizing behaviors.ⁱⁱ

By working together, we can build communities that provide the support needed to protect against anxiety and depression, adolescent violence, self-injury, risky behaviors, and other challenges that have a lasting impact on the ability of young people to thrive. The Fair Start Model requires society to move away from a model of parenting-in-isolation to a community-based model where every child deserves equal access to conditions necessary for health development.

Recently, the U.S. Court of Appeals for the Sixth Circuit upheld the State of Kentucky’s prohibition on abortion when the decision to abort is based on ethnicity, sex, or disability.ⁱⁱⁱ The Fair Start model adds to Kentucky’s policy goal by ensuring that children born in Kentucky have equal access to the resources they need to gain equal footing in life, regardless of ethnicity, sex, or disability. Having Kids believes that all children should be provided with opportunities that promote positive, life-shaping development, while also building resilience and the ability to recover from past adversities.

Why enumerate this right?

Public health experts recognize the need for “a deliberate process of providing all youth with the support, relationships, experiences, resources, and opportunities needed to become successful and competent adults.” In 2017, the Colorado General Assembly passed House Bill 13-1239, which called for the creation of a statewide youth development plan, which marks an important first step with limitations. Namely, the legislation fails to recognize an enforceable *right* to healthy development. By enshrining this right in the Constitution, we can continue the progress that’s already been made in Colorado, while providing a means by which to hold elected officials – and each other – accountable for ensuring that youth in every generation are given the opportunity to thrive.

The Right to Equal Economic Opportunities

The status quo in Colorado is both unsustainable and unfair. Unequal opportunities in childhood translate into unequal lifelong outcomes by the time children reach the age of five. Yet since 2000, the number of middle-class families in Colorado has declined by over six percent—placing Colorado at 40th in the nation in terms of middle-class families. Between 1979 and 2015, wages for the top one percent of Coloradans increased by almost 157 percent, while wages for the bottom 90 percent of Coloradans rose by only 21 percent over the same period.^{iv} This disparity in earnings fuels the gaps in education and health that ensure some children thrive and others do not. In addition, the effects of climate change, discussed more below, continue to disproportionately impact disadvantaged groups.^v

Why enumerate this right?

In most of the thirty-seven member countries of the Office of Economic Cooperation and Development (OECD), the gap between rich and poor is at its highest level in thirty years. Today, the richest 10 percent of the population in OECD member countries earn 9.5 times the income of the poorest ten percent. Drawing on “harmonized data covering the OECD countries over the past 30 years, the economic analysis suggests that income inequality has a negative and statistically significant impact on subsequent growth.”^{vi} It follows that policies to reduce income inequalities should “not only be pursued to improve social outcomes but also to sustain long-term growth.” Countries should consider redistribution policies via taxes and transfers as key tools to ensure the benefits of growth are broadly distributed to promote equality of opportunity in access to quality of life, including education, meaningful work, and natural environments.

Wealth, moreover, is unequally distributed by race—and particularly between white and black households. African American families have a fraction of the wealth of white families, leaving them more economically insecure and with far fewer opportunities for economic mobility. Even after considering positive factors, such as increased education levels, African Americans have less wealth than whites. Less wealth translates into fewer opportunities for upward mobility and is compounded by lower income levels and fewer chances to build wealth or pass accumulated wealth down to future generations. Latino and certain Asian American and Pacific Islander household wealth also falls far below their white counterparts. This wealth gap has cascading impacts on children, who suffer for generations from this staggering income inequality. We can do better.

The proposed constitutional amendment seeks to disrupt the trend of rising inequality. Currently, the Colorado Constitution entrenches income inequality by banning progressive income taxes, which would tax the wealthy at a higher rate than the poor. A constitutional amendment that ensures the right to equal economic opportunity would provide a pathway for reforming current structures that have led to systemic inequality in childhood and beyond.

The Right to Environmental Restoration

Background

Colorado is a state known for its natural beauty and vast outdoors. However, climate change presents a real and imminent danger to Colorado’s rich and unique environment. Specifically, changes in soil moisture, rising temperatures, and variations in trees and shrubs—associated with climate change—are major factors that heighten the risk and severity of wildfires, landslides, and severe weather events.^{vii}

The well-being of humans, other animals, and the environment are deeply interconnected. Optimum human health and resilience requires mutually healthy living systems. Through education, research, and advocacy focused on the importance of conservation to child development and human health and wellbeing, Having Kids knows and understands the value of the living world and the interrelationship between human, animal, and environmental health.

Inarguably, Colorado’s natural resources play a huge role in our state’s economy. Despite having only 1.7 percent of the U.S. population, Colorado has 7.7 percent of the nation’s tourism jobs. In 2016, 82.4 million visitors spent a total of \$19.7 billion here.^{viii} However, with the threat of shortened ski seasons, inaccessible hiking trails, and rises in extreme weather, Colorado stands to lose an enormous number of jobs and revenue that will negatively impact the health and wealth of our population for generations to come.



Climate change threatens Colorado’s wilderness heritage, the projected devastation of which includes:

- A 50 percent reduction in Colorado snowpack by the end of this century, vastly reducing the state’s supply of drinking water and limiting opportunities for outdoor recreation, like skiing
- A rise in pine beetles, resulting in greater forest fires, limited opportunities for hiking and outdoor recreation, and inevitable property damage
- Declining populations of large mammals like elk, deer, and bighorn sheep, due to rising temperatures that displace their food sources
- Reduced abundance and variety of wildflowers due to earlier snowmelt, negatively impacting the birds, insects and mammals that rely on them for food and shelter^{ix}
- Extinction of Colorado’s plants and animals; over 30 species of animals in Colorado are already classified as endangered or threatened^x
- Severe and irreparable damage to ecological resources due to increases in the frequency and intensity of wildfires; indeed, three of the largest and most destructive wildfires in Colorado’s history occurred in 2020

Half of Colorado's bird species are in danger of extinction due to climate change, including Colorado's state bird, the lark bunting.

These effects are not only devastating for the animals and plants that also call Colorado home^{xi}, but they also have a real and harmful impact on future generations of human beings. In the most obvious sense, all Coloradans deserve the chance to get outside and recreate. With four national parks and over forty state parks, Colorado offers unique opportunities to hike, bike, climb, run, and wander. However, these opportunities will be limited as floods and forest fires damage public lands.

Fortunately, if restored, Colorado’s grasslands and forests can help combat the catastrophic effects of climate change on child development. Greenery essentially serves as the earth’s lungs, removing excess carbon that heats our planet. An article in the journal *Science* estimates that by letting saplings grow on land that has been cleared of forests could remove 205 billion, of the 300 billion, metric tons of carbon that humans have released into the atmosphere since the dawn of the industrial revolution.^{xii} Protecting, and restoring, our wilderness is a key strategy to combatting the climate crisis, which in turn protects the natural wonder of the world, which is so critical to healthy child development.^{xiii}

Why enumerate this right?

Eight states have already recognize the mutually beneficial relationship between human development and environmental restoration by protecting the right to a clean, healthy, or sustainable environment in their Constitutions. (See Appendix 1). Yet Colorado fails to do so. While the Colorado Constitution requires that the proceeds from the Colorado lottery support the

Colorado Great Outdoors program (Article XXVII, Section 1), it does not recognize a right to accessing or enjoying nature, and Colorado courts have declined to recognize these rights in Constitution's public trust doctrine.

Given Colorado's large share of the nation's wilderness, combined with its importance to our citizens' physical, economic, and social well-being, the time is right to formally recognize that each Coloradoan has an inalienable right to wilderness, as a means of preservation of life systems. By including nature in the constitution, we not only formally recognize the need to protect our environment, but we also provide a mechanism by which we can hold our elected officials – and one another – accountable for confronting threats like climate change.

Balancing Rights with Responsibilities

It is important to note that the proposed amendment not only enumerates rights, but also implies certain responsibilities, especially with regards to participatory democracy. While the government is tasked with making and enforcing laws to protect our rights, each one of us is also tasked with living our lives in a way that respects and advances the rights of others. In doing so, individuals are given a right and responsibility to plan the number and spacing of their children in a way that takes into account the needs of future generations, including their impact on Colorado's wilderness.

Having Kids knows that in order to truly be born free and equal, every child must have financial, medical, educational, and psychosocial support. These supports come from the child's family and their community at large. By enumerating a right to be born free and equal, the constitutional amendment implicitly recognizes that we all have a responsibility to respect the rights of future generations. By waiting to have kids, parents can increase their savings, stability, and support network, to ensure that each child has a fair start in life. And by choosing to have smaller families, parents can lessen their impact on the natural environment.

In addition to planning our families, the constitutional amendment reminds us that we each have a responsibility to plan our communities responsibly. We can invest in making education, healthcare, and financial support available to all children. We also can take steps to be good stewards of our wilderness, knowing that the physical and mental wellbeing of future generations depends on its restoration and preservation.

Who must balance rights and responsibilities?

In short, *everyone*. Planning for future generations starts with each and every one of us. Regardless of race, economic status, geographic location, gender, sexual orientation, or creed, each one of us is responsible for planning our families – and communities – in a way that considers the needs of tomorrow's children. Having Kids acknowledges that for too long, the pressure to plan smaller families has fallen on communities of color and poorer populations while wealthy individuals have been encouraged to continue unsustainable patterns of growth and consumption. The constitutional amendment is therefore intended to move all Coloradans toward making decisions with the needs of future generations in mind.

Calling out Equality and Enforceability

Article 1 of the Universal Declaration of Human Rights (UDHR) states that “All human beings are born free and equal in dignity and rights.” While the U.S. signed the UDHR, it has never ratified the declaration, and the U.S. Supreme Court has ruled that it is not binding under international law.^{xiv} As compared with the UDHR, the U.S. Constitution provides that “all men are created equal” but this statement is not inclusive of individuals who do not identify as men. It is therefore up to each state to ensure that all citizens are offered free and equal protections. For example, on November 2, 1976, Massachusetts amended its Declaration of Rights to state:

All people are born free and equal and have certain natural, essential and unalienable right;....Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin.

In contrast, the Colorado Constitution does not contain any such language. While Article II, Section 27 guarantees “equality of the sexes” the Constitution does not guarantee equality based on race, color, creed, age or national origin. Further, not only does the Colorado Constitution fail to recognize equality of individuals regardless of sexual orientation or gender identity, but it specifically states that there is “No Protected Status Based on Homosexual, Lesbian or Bisexual Orientation.” (Article II, Section 30b).

Equality under the law shall not be denied or abridged because of sex, race, color, creed, national origin, sexual orientation, age, or gender identity. Any person may enforce these rights against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

The proposed language amends Article II, Section 3 in order to clarify that all persons are born free and equal, that the inalienable rights of all individuals are equally recognized under the law, and to remind Coloradans that *anyone* can enforce their rights.

Next Steps

We envision the constitutional amendment as a starting point that could serve as the basis for other public policies and social programs. For example, increased support for Long-Acting Reversible Contraceptives^{xv}, guaranteed and sustainable income support for each child, and a phase-out of fossil fuel development on Colorado’s wild lands, could all eventually gain traction in the legislature if they are framed as ways to fulfill each Coloradoan’s inalienable rights. In order to secure this pathway for progress, both lawmakers and citizens must first undertake the work of amending the state’s Constitution. Colorado’s constitution recognizes that “All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only.” (Article II, Section 1). In order to change the Constitution, a proposed amendment must be approved by two-thirds of the members of each house. The amendment must then be voted on and approved by 55 percent of Colorado voters. This process means that in order to guarantee a fair start for all Coloradans, we need statewide support.

Supporting Global Goals

While amending the Colorado Constitution provides an excellent first step for advancing the well-being of Coloradans, it also serves a broader purpose. The proposed amendment is in line with the United Nations Sustainable Development goals, which address challenges related to poverty, inequality, climate change, environmental degradation, peace, and justice.^{xvi} By ensuring a fair start for every child at birth and a right to enjoy wilderness, the Colorado Constitution would pave the way for the types of interventions that create a more sustainable future for all. Securing a right to equality at birth means ensuring that families have the tools necessary to plan the number and spacing of children. In turn, this strategy contributes to environmental sustainability. For example, we know that having smaller families is twenty times more effective at reducing climate impact than changing diet or transportation habits alone. Similarly, the constitutional amendment would provide an anchor for the types of economic interventions – such as a guaranteed income for children – that would help eradicate poverty. The proposed amendment is therefore intended to provide a foundation for localized interventions that catalyze global change.

How can you help?

Having Kids invites you to join us in building a future that is worth handing down. Please consider:

1. Learning more about what we do by visiting havingkids.org.
2. Making [a donation](#) to advance our work.
3. Talking to your local or state legislators about fair start policies.
4. Joining the conversation on the Having Kids [Facebook](#) and [Twitter](#) pages.

We look forward to a future in which our children, our wilderness, and our communities all thrive together.

Appendix 1

State Constitutions with Environmental Protections	
State	Text within the Constitution
Hawaii	The State shall have the power to promote and maintain a healthful ENVIRONMENT, including the prevention of any excessive demands upon the ENVIRONMENT and the

	<p>State's resources. (Article IX, Section 8).</p> <p>Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law. (Article XI, Section 9)</p>
Illinois	<p>The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy. (Article XI, Section 1).</p> <p>Each person has the right to a healthful ENVIRONMENT. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law. (Article XI, Section 2).</p>
Louisiana	<p>The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall enact laws to implement this policy. (Article IX, Section 1)</p>
Massachusetts	<p>The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose. The general court shall have the power to enact legislation necessary or expedient to protect such rights. (Article 97).</p>
Montana	<p>All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities. (Article II, Section 3).</p> <p>The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations. (Article IX, Section 1.1)</p>
New Mexico	<p>The protection of the state's beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare. The legislature shall provide for control of pollution and control of despoilment of the air,</p>

	water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people. (Article XX, Section 21).
Pennsylvania	The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people. (Article I, Section 27).
Rhode Island	The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state, including but not limited to fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and passage along the shore; and they shall be secure in their rights to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values; and it shall be the duty of the general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate resource planning for the control and regulation of the use of the natural resources of the state and for the preservation, regeneration and restoration of the natural environment of the state. (Article I, Section XVII).

References

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- ^{xiv} *Sosa v. Alvarez-Machain*, 542 U.S. 692, 734 (2004) ("The Universal Declaration of Human Rights, G. A. Res. 217A (III), U. N. Doc. A/810 (1948), does not of its own force impose obligations as a matter of international law.").
- ^{xv} <https://havingkids.org/colorado-larcs-having-kids/>
- ^{xvi} <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>