



AMENDMENT 3: A MISLEADING AND DANGEROUS PRO-ABORTION CONSTITUTIONAL AMENDMENT

On November 5, 2024, Missourians will go to the polls to vote not only for the next president of the United States, but also to decide if abortion should be part of our Missouri Constitution. When something is enshrined in a state constitution, there can be many unintended consequences that cannot be readily remedied by the legislature. Such is the case with Missouri's pro-abortion Constitutional Amendment 3.

MISLEADING BALLOT LANGUAGE

The language of the amendment is broadly written with few terms defined. It begins with the following statement:

2. The Government shall not deny or infringe upon a person's fundamental right to reproductive freedom, which is the right to make and carry out decisions about all matters relating to reproductive health care, including but not limited to prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions.

This language implies that prenatal care, childbirth, postpartum care, birth control, miscarriage care, and respectful birthing conditions are at risk if Amendment 3 is not passed. This is not true. This section also promotes the dangerous lie that women who have a miscarriage or an ectopic pregnancy will not receive the necessary medical care without the passage of Amendment 3. Neither ectopic pregnancy treatment nor miscarriage care are considered abortions under current



Missouri law. Dr. Alexa Williams, OB/GYN recently told Jennifer Brinker of the *St. Louis Review*:

"This is where Amendment 3 is confusing because it essentially is promoting a right to all women's health care, which initially sounds like a positive idea — until you notice that abortion care is intermingled into the mix with no restrictions, no safety standards, no parental consent for minors and no limitations on taxpayer funding," said Dr. Williams

Current medical terminology is a reason why miscarriage care has become intertwined with abortion, Dr. Williams added.

The term for miscarriage often used in a medical setting is "spontaneous abortion," which is defined as an early unintended pregnancy loss.

This term is different from "elective abortion," "induced abortion" and "medication abortion," all of which involve medication or surgery as a direct means to remove the embryo

or fetus and placenta from the uterus, she said.

Recognizing the challenges in interpreting medical terminology, the American College of Obstetricians and Gynecologists and other health-care organizations formalized a common set of definitions for women's health care in obstetrics and gynecology.

ReVITALize Gynecology Data Definitions no longer recommends the use of the term "spontaneous abortion" and instead suggests "miscarriage" or "intrauterine pregnancy loss."

An ectopic pregnancy, where a pregnancy occurs outside of the endometrial cavity (typically within the fallopian tube), is considered nonviable and likely to present significant risks to the mother's life, Dr. Williams said.

Removal of the fallopian tube is a common treatment option, she said, adding that the indirect result of this surgery is a loss of a nonviable

pregnancy, where typically there is no cardiac activity and low pregnancy hormone levels.

"Practicing as conservatively as possible in regard to the law, if ectopic pregnancy management would be considered an indirect 'abortion,' there is an exception for any procedure that would be a medical emergency, which has certainly been well established in the setting of ectopic pregnancies," Dr. Williams said.

ELIMINATION OF PARENTAL RIGHTS

Subsection 2 provides this broad right to reproductive freedom to every "person". When dealing with constitutional provisions and state laws, the terms used matter. By using the word "person", instead of "adult" or "woman", anyone under the age of 18 could have an abortion without their parents' consent or even notification.

NO SAFETY REGULATIONS FOR WOMEN

Amendment 3 states:

3. The right to reproductive freedom shall not be denied, interfered with, delayed, or otherwise restricted unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means. Any denial, interference, delay, or restriction of the right to reproductive freedom shall be presumed invalid.

In addition, Amendment 3 states that the “compelling governmental interest” must not limit a “person’s autonomous decision-making”. This means that “reproductive freedom” is protected to a greater level than other constitutional rights, including life, liberty, property, due process, equal protection, speech, and religion.

This nearly unlimited right would effectively eliminate all safety standards and regulations for abortion and other areas of “reproductive freedom.”

Jay Nies, editor of *The Catholic Missourian*, discussed this issue:

Not only would it allow practically unrestricted access to elective abortion at any stage of pregnancy, it would override safeguards in Missouri law that help protect women from unsafe abortions.

Among these provisions are the requirement that only a medical doctor be allowed to perform abortions in the state; that parents of a minor be notified before she can have an abortion; and that abortion clinics comply with the state’s health and safety standards for outpatient surgical centers and be located close enough to a hospital that a woman can get treatment if life-threatening complications arise.

“If these or any of the other safety measures are perceived as a delay or denial of an abortion, they are plainly unconstitutional under this amendment,” stated Jamie Morris, executive director and general counsel for the Missouri Catholic Conference (MCC), public policy agency of the state’s four Roman Catholic dioceses.

In 2018, when abortion was legal in Missouri, an unannounced inspection of the Planned Parenthood clinic in Columbia, discovered black mold, rust and bodily fluid on equipment that had recently been used to treat patients. The clinic was also unable to secure a physician that had hospital admitting privileges within 30 minutes of the clinic. The

state refused to renew Planned Parenthood’s license due to unsanitary conditions.

In addition, this new right would mean that, at least prior to viability, courts will have to invalidate Missouri’s law prohibiting abortion due to the sex, race, or Down syndrome diagnosis of the preborn child.

ABORTIONS ALLOWED INTO THE SECOND AND THIRD TRIMESTER

Amendment 3 allows abortion for any reason before “fetal viability”, which is defined as:

the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus’s sustained survival outside the uterus without the application of extraordinary medical measures.

...according to Dr. Hern, the viability of a fetus is determined not by gestational age, but by a woman’s willingness to carry it.

A preborn child can survive outside of the womb at 22 to 24 weeks of pregnancy. This means that elective abortions for any reason are allowed for approximately the first six months of pregnancy, which is after the time science has shown that an unborn child can feel pain.

In addition, Amendment 3 offers a loophole that allows abortion into the 7th, 8th, and 9th months of pregnancy as it states:

Under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to

What you will see on the Ballot is NOT what the Amendment says

Official Ballot Title Amendment 3

Proposed by Initiative Petition

Official Ballot Title:

Do you want to amend the Missouri Constitution to:

- establish a right to make decisions about reproductive health care, including abortion and contraceptives, with any governmental interference of that right presumed invalid;
- remove Missouri’s ban on abortion;
- allow regulation of reproductive health care to improve or maintain the health of the patient;
- require the government not to discriminate, in government programs, funding, and other activities, against persons providing or obtaining reproductive health care; and
- allow abortion to be restricted or banned after Fetal Viability except to protect the life or health of the woman?

State governmental entities estimate no costs or savings, but unknown impact. Local governmental entities estimate costs of at least \$51,000 annually in reduced tax revenues. Opponents estimate a potentially significant loss to state revenue.

Fair Ballot Language:

A “yes” vote establishes a constitutional right to make decisions about reproductive health care, including abortion and contraceptives, with any governmental interference of that right presumed invalid; removes Missouri’s ban on abortion; allows regulation of reproductive health care to improve or maintain the health of the patient; requires the government not to discriminate, in government programs, funding, and other activities, against persons providing or obtaining reproductive health care; and allows abortion to be restricted or banned after Fetal Viability except to protect the life or health of the woman.

A “no” vote will continue the statutory prohibition of abortion in Missouri.

If passed, this measure may reduce local taxes while the impact to state taxes is unknown.





What the Amendment Says



What the Amendment Does

NOTICE: The proposed amendment revises Article I of the Constitution by adopting one new Section to be known as Article I, Section 36.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article I of the Constitution is revised by adopting one new Section to be known as Article I, Section 36 to read as follows:

Section 36. 1. This Section shall be known as "The Right to Reproductive Freedom Initiative."

2. The Government shall not deny or infringe upon a person's fundamental right to reproductive freedom, which is the right to make and carry out decisions about all matters relating to reproductive health care, including but not limited to prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions.

3. The right to reproductive freedom shall not be denied, interfered with, delayed, or otherwise restricted unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means. Any denial, interference, delay, or restriction of the right to reproductive freedom shall be presumed invalid. For purposes of this Section, a governmental interest is compelling only if it is for the limited purpose and has the limited effect of improving or maintaining the health of a person seeking care, is consistent with widely accepted clinical standards of practice and evidence-based medicine, and does not infringe on that person's autonomous decision-making.

4. Notwithstanding subsection 3 of this Section, the general assembly may enact laws that regulate the provision of abortion after Fetal Viability provided that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to protect the life or physical or mental health of the pregnant person.

5. No person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall any person assisting a person in exercising their right to reproductive freedom with that person's consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so.

6. The Government shall not discriminate against persons providing or obtaining reproductive health care or assisting another person in doing so.

7. If any provision of this Section or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

8. For purposes of this Section, the following terms mean:

(1) "Fetal Viability", the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Government",

a. the state of Missouri; or

b. any municipality, city, town, village, township, district, authority, public subdivision or public corporation having the power to tax or regulate, or any portion of two or more such entities within the state of Missouri.

Eliminate parental notification or consent.

Prohibit any regulation of abortion.

Allow abortion at any time for any reason.

Put women at risk. No medical doctor required.

Shield negligent health care professionals.

Open the door to taxpayer-funded abortions.

Permit abortion even when the preborn child can feel pain.

Do not be fooled by the Ballot Language or Fair Ballot Language you will see at the polls. This language does not completely convey the far reaching effects of this misleading pro-abortion constitutional amendment. For more information about Amendment 3 visit us at mocatholic.org.

protect the life or physical or mental health of the pregnant person.

This means that a health care provider could justify a late-term abortion due to a woman's emotional and psychological concerns.

NEGLIGENT PROVIDERS PROTECTED

Negligence associated with reproductive care would be enshrined in Missouri's constitution as Amendment 3 states:

5. No person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall any person assisting a person in exercising their right to reproductive freedom with that person's consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so. (emphasis added)

A woman or minor who is injured as a result of "reproductive care" cannot sue the negligent individual(s) who caused the harm. Because "reproductive freedom" includes more than

abortion, this provision would also affect a woman injured during a hysterectomy, in-vitro fertilization process, or during the birth of her child.

"HEALTH CARE PROFESSIONAL" ≠ DOCTOR

Amendment 3 leaves questions of fetal viability and whether an abortion is necessary for the physical or mental health of the woman to the judgment of "a treating health care professional". This term is not defined in Amendment 3 and includes more than just licensed physicians in other areas of Missouri law. In Missouri, a health care professional can be a nurse practitioner, physician assistant, pharmacist, psychiatrist, dental hygienist, or a podiatrist.

In addition to the problem of allowing non-physicians to make these determinations, there is a problem with such decisions being made by the individual who is providing—and has an interest in—the abortion. Consider the case of Dr. Warren Hern, a late-term abortion provider in Colorado, who was interviewed in *The Atlantic* in 2023. The article states that, according to Dr. Hern, the viability of a fetus is determined not by gestational age, but by a woman's

willingness to carry it. When the author asked Dr. Hern what he would say to a healthy woman 30 weeks along who came to his office: "Every pregnancy is a health issue! There is a certifiable risk of death from being pregnant, period," said Hern.

TAXPAYER-FUNDED ABORTIONS

Amendment 3 opens the door to taxpayer-funded abortions by stating:

6. The Government shall not discriminate against persons providing or obtaining reproductive health care or assisting another person in doing so.

After Michigan voters recently approved a constitutional amendment establishing a right to abortion, the ACLU filed a lawsuit stating that to withhold funding for abortion through Medicare or Medicaid is unconstitutional. To withhold abortion funding is considered discriminatory against low-income individuals.

CONSTITUTIONAL RIGHT VS. LAW

When thinking about the unknowns of Amendment 3, it's important to remember that these provisions

will be going into Missouri's Constitution. Unlike laws passed by the Missouri General Assembly, lawmakers cannot simply amend constitutional provisions that have unintended negative consequences. For citizens to "fix" problems with Amendment 3, they will have to go back through the time-consuming and costly process to propose a constitutional amendment and then wage an expensive campaign in the hope that voters will approve the amendment at the next general election.

YEARS OF LITIGATION

Amendment 3's nearly-unlimited "right to reproductive freedom" will lead to years of litigation, as interested parties try to determine the outer limits of what is protected, not just for abortion, but "all matters related to reproductive freedom". Any law seen as interfering, denying, or delaying this new right will likely be tested.

The vague language of Amendment 3 virtually guarantees that Missouri citizens will not truly know its full impact unless they pass—and litigate—it. As Jamie Morris told *The Catholic Missourian*, "It's never good government to drop something into the state constitution that we're going to have to litigate for years and years to figure out what it truly does."

Visit mocatholic.org for a list of resources for women and families by diocese.



Pregnancy Resource Centers

- ♥ Birthright Counseling St. Louis
- ♥ Birthright of Hillsboro
- ♥ Birthright of Tri-County (based in Eureka, MO)
- ♥ Birthright of Wentzville
- ♥ Birthright of St. Charles
- ♥ Carling Hearts Pregnancy Resource Center (in Potosi in Washington County)
- ♥ Hand'n Hand Women's Center (Jefferson County)
- ♥ Options for Women (Ste. Genevieve County)
- ♥ Parkland Pregnancy Resource Center (Farmington, St. Francois County)
- ♥ Pregnancy Help Center South County
- ♥ ThriVe St. Louis



Family Resources

Food
Housing
Adoption
Foster Care
and more

- ♥ Archbishop Robert J. Carlson Adoption Grant
- ♥ Bridge of Hope Lincoln County (short-term housing and related help)
- ♥ Cardinal Ritter Senior Services
- ♥ Family Forward
- ♥ Fathers & Families Support Center
- ♥ Feed My People Food Help Program
- ♥ Gateway Area World Wide Marriage Encounter
- ♥ Good Shepherd Children & Family Services (adoption, foster care, maternity home, parenting classes)
- ♥ Oasis Food Pantry (St. Charles area based)
- ♥ Safe Families for Children (crisis care)
- ♥ Archdiocesan Marriage and Family Life
- ♥ Our Lady's Inn Maternity Homes



Hope, Healing, Forgiveness

- ♥ Archdiocesan Abortion Healing Ministry
- ♥ Hope After Abortion
- ♥ Support After Abortion
- ♥ Gabriel's Retreat Ministries
- ♥ Spiritual Direction and healing prayer through the Catholic Renewal Center
- ♥ Catholic Charities of St. Louis
- ♥ Masses, Rosary, Holy Hour
- ♥ Rite of Naming & Commendation: designed to meet the needs of parents whose child(ren) died prior to birth because of miscarriage, accident, or abortion.
- ♥ After Abortion Healing for Men