

Proposition ? : Prohibit Abortions After 22 Weeks

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 • prohibit abortion after 22 weeks gestational age of the fetus, except when
3 an abortion is immediately required to save the life of a pregnant woman;
- 4 • create a criminal penalty for any person who performs a prohibited
5 abortion; and
- 6 • require that the state suspend the medical license for three years of any
7 physician who violates the measure.

8 **What Your Vote Means**

YES

A “yes” vote on Proposition ? prohibits abortions in Colorado after 22 weeks gestational age, except when an abortion is immediately required to save the life of a pregnant woman.

NO

A “no” vote on Proposition ? means that abortion in Colorado continues to be legal at any time during a pregnancy.

1 **Summary and Analysis for Proposition ?**

2 **What happens if Proposition ? passes?**

3 Under Proposition ?, abortions may not be performed after 22 weeks gestational age
4 of the fetus. The measure allows for an exception when, in the reasonable medical
5 judgement of a physician:

- 6 • the pregnant woman's life is threatened by a physical disorder, physical illness,
7 or physical injury, but not including psychological or emotional conditions; and
- 8 • an abortion, rather than an expedited delivery of the living fetus, is immediately
9 required to save the life of a pregnant woman.

10 **How does the measure define abortion?**

11 Under the measure, abortion is any surgical or medication-assisted procedure
12 performed with the intent to terminate a pregnancy. A procedure is not an abortion if
13 performed with the intent to:

- 14 • save the life or preserve the health of the embryo or fetus;
- 15 • remove a dead embryo or fetus caused by miscarriage; or
- 16 • remove an embryo or fetus growing outside of the uterus.

17 **What would be the penalties for performing an abortion after 22 weeks gestational**
18 **age?**

19 If the measure passes, any person who intentionally or recklessly performs or
20 attempts to perform an abortion after 22 weeks gestation would be guilty of a class 1
21 misdemeanor punishable by a fine of \$500 to \$5,000. The measure specifies that
22 jail time for this offense is not allowed. In addition, the measure classifies performing
23 an abortion after 22 weeks gestation as unprofessional conduct for a licensed
24 physician. The Colorado Medical Board must suspend the professional license of a
25 physician for at least three years who is found to have violated the law.

26 There would be no penalty for a woman who receives an abortion or for a person
27 who fills a prescription or provides equipment used in an abortion.

28 **What is Colorado's current law related to abortion?**

29 Abortion is legal in Colorado, and an adult woman may seek an abortion at any time.
30 For minors seeking an abortion, Colorado law requires that the parents or caregivers
31 of the minor receive written notification of the abortion at least 48 hours prior to the
32 procedure, with certain exceptions.

33 **Can states place restrictions on the time at which a woman may seek an abortion?**

34 In 1973, the U.S. Supreme Court overturned a Texas state law that made it a crime
35 to obtain or perform an abortion, except for the purpose of saving the life of the
36 mother. In its ruling, the Court held that a woman has a right to choose to have an
37 abortion before fetal viability; however, states have the power to regulate or prohibit
38 abortions after fetal viability if the law contains exceptions for pregnancies that
39 endanger the woman's life or health. In its ruling, the Court stated that viability is the
40 point at which a fetus is able to live outside the mother's womb. In 1992, the Court

1 further ruled that state laws regulating abortion must not impose an undue burden on
2 a woman seeking an abortion of a nonviable fetus.

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

3 **Argument For Proposition ?**

4 1) The measure protects viable human life. Current Colorado law allows abortion at
5 any time during a pregnancy even though premature babies born as early as
6 22 weeks gestation can survive. This measure places a reasonable restriction
7 on abortion after viability, while still allowing a pregnant woman several months
8 to make a choice about her pregnancy. The measure also provides an exception
9 that allows an abortion after 22 weeks when necessary to save the life of the
10 mother. This is a balanced approach with reasonable exceptions to a very
11 personal issue.

12 **Argument Against Proposition ?**

13 1) Restricting access to abortion limits a woman's right to bodily autonomy and
14 interferes with the patient and doctor relationship. The choice to end a
15 pregnancy is often a serious and difficult decision, and should be left solely up to
16 the woman, in consultation with her doctor, to decide what is best for her. The
17 measure does not include any exceptions to allow women who have been the
18 victim of rape or incest to obtain an abortion later in a pregnancy. In addition, it
19 provides no exceptions for the detection of a serious fetal abnormality later in
20 pregnancy, which may force women to carry a nonviable pregnancy to term.
21 Women, with the advice of a medical professional, should be able to seek an
22 abortion, without arbitrary time limits enforced by state government.

23 **Estimate of Fiscal Impact for Proposition ?**

24 **State revenue.** Proposition ? will minimally increase state revenue from criminal
25 fines and court fees beginning in state budget year 2020-21. It may also increase
26 revenue from civil penalties and regulatory fees by a minimal amount.

27 **State spending.** Starting in state budget year 2020-21, Proposition ? will minimally
28 increase workload in the Department of Regulatory Agencies and may increase
29 costs in the Department of Health Care Policy and Financing.

30 **Local government revenue and spending.** Starting in state budget year 2020-21,
31 Proposition ? will increase costs and workload for district attorneys and may increase
32 revenue, costs, and workload for the Denver County Court.