

INITIATIVE PETITION AMENDMENT TO THE CONSTITUTION

Constitutional Amendment to: establish new individual right to reproductive freedom, including right to make and carry out all decisions about pregnancy, such as prenatal care, childbirth, postpartum care, contraception, sterilization, abortion, miscarriage management, and infertility; allow state to prohibit abortion after fetal viability unless needed to protect a patient's life or physical or mental health; forbid state discrimination in enforcement of this right; prohibit prosecution of an individual, or a person helping a pregnant individual, for exercising rights established by this amendment; and invalidate all state laws that conflict with this amendment.

The full text of the proposal amending Article I to add Section 28 is as follows:

ARTICLE 1, SECTION 28 RIGHT TO REPRODUCTIVE FREEDOM

(1) EVERY INDIVIDUAL HAS A FUNDAMENTAL RIGHT TO REPRODUCTIVE FREEDOM, WHICH ENTAILS THE RIGHT TO MAKE AND EFFECTUATE DECISIONS ABOUT ALL MATTERS RELATING TO PREGNANCY, INCLUDING BUT NOT LIMITED TO PRENATAL CARE, CHILDBIRTH, POSTPARTUM CARE, CONTRACEPTION, STERILIZATION, ABORTION CARE, MISCARRIAGE MANAGEMENT, AND INFERTILITY CARE.

AN INDIVIDUAL'S RIGHT TO REPRODUCTIVE FREEDOM SHALL NOT BE DENIED, BURDENED, NOR INFRINGED UPON UNLESS JUSTIFIED BY A COMPELLING STATE INTEREST ACHIEVED BY THE LEAST RESTRICTIVE MEANS.

NOTWITHSTANDING THE ABOVE, THE STATE MAY REGULATE THE PROVISION OF ABORTION CARE AFTER FETAL VIABILITY, PROVIDED THAT IN NO CIRCUMSTANCE SHALL THE STATE PROHIBIT AN ABORTION THAT, IN THE PROFESSIONAL JUDGMENT OF AN ATTENDING HEALTH CARE PROFESSIONAL, IS MEDICALLY INDICATED TO PROTECT THE LIFE OR PHYSICAL OR MENTAL HEALTH OF THE PREGNANT INDIVIDUAL.

(2) THE STATE SHALL NOT DISCRIMINATE IN THE PROTECTION OR ENFORCEMENT OF THIS FUNDAMENTAL RIGHT.

(3) THE STATE SHALL NOT PENALIZE, PROSECUTE, OR OTHERWISE TAKE ADVERSE ACTION AGAINST AN INDIVIDUAL BASED ON THEIR ACTUAL, POTENTIAL, PERCEIVED, OR ALLEGED PREGNANCY OUTCOMES, INCLUDING BUT NOT LIMITED TO MISCARRIAGE, STILLBIRTH, OR ABORTION. NOR SHALL THE STATE PENALIZE, PROSECUTE, OR OTHERWISE TAKE ADVERSE ACTION AGAINST SOMEONE FOR AIDING OR ASSISTING A PREGNANT INDIVIDUAL IN EXERCISING THEIR RIGHT TO REPRODUCTIVE FREEDOM WITH THEIR VOLUNTARY CONSENT.

(4) FOR THE PURPOSES OF THIS SECTION:

A STATE INTEREST IS "COMPELLING" ONLY IF IT IS FOR THE LIMITED PURPOSE OF PROTECTING THE HEALTH OF AN INDIVIDUAL SEEKING CARE, CONSISTENT WITH ACCEPTED CLINICAL STANDARDS OF PRACTICE AND EVIDENCE-BASED MEDICINE, AND DOES NOT INFRINGE ON THAT INDIVIDUAL'S AUTONOMOUS DECISION-MAKING.

"FETAL VIABILITY" MEANS: THE POINT IN PREGNANCY WHEN, IN THE PROFESSIONAL JUDGMENT OF AN ATTENDING 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.

(5) THIS SECTION SHALL BE SELF-EXECUTING. ANY PROVISION OF THIS SECTION HELD INVALID SHALL BE SEVERABLE FROM THE REMAINING PORTIONS OF THIS SECTION.

Provisions of existing constitution altered or abrogated by the proposal if adopted:

ARTICLE I DECLARATION OF RIGHTS

§ 2 Equal protection; discrimination.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

§ 23 Enumeration of rights not to deny others.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

§ 27 Human embryo and embryonic stem cell research.

Section 27. (1) Nothing in this section shall alter Michigan's current prohibition on human cloning. (2) To ensure that Michigan citizens have access to stem cell therapies and cures, and to ensure that physicians and researchers can conduct the most promising forms of medical research in this state, and that all such research is conducted safely and ethically, any research permitted under federal law on human embryos may be conducted in Michigan, subject to the requirements of federal law and only the following additional limitations and requirements: (a) No stem cells may be taken from a human embryo more than fourteen days after cell division begins; provided, however, that time during which an embryo is frozen does not count against this fourteen day limit. (b) The human embryos were created for the purpose of fertility treatment and, with voluntary and informed consent, documented in writing, the person seeking fertility treatment chose to donate the embryos for research; and (i) the embryos were in excess of the clinical need of the person seeking the fertility treatment and would otherwise be discarded unless they are used for research; or (ii) the embryos were not suitable for implantation and would otherwise be discarded unless they are used for research. (c) No person may, for valuable consideration, purchase or sell human embryos for stem cell research or stem cell therapies and cures. (d) All stem cell research and all stem cell therapies and cures must be conducted and provided in accordance with state and local laws of general applicability, including but not limited to laws concerning scientific and medical practices and patient safety and privacy, to the extent that any such laws do not: (i) prevent, restrict, obstruct, or discourage any stem cell research or stem cell therapies and cures that are permitted by the provisions of this section; or (ii) create disincentives for any person to engage in or otherwise associate with such research or therapies or cures. (3) Any provision of this section held unconstitutional shall be severable from the remaining portions of this section.

ARTICLE III GENERAL GOVERNMENT

§ 7 Common law and statutes, continuance.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

ARTICLE IV LEGISLATIVE BRANCH

§ 1 Legislative power.

Sec. 1. Except to the extent limited or abrogated by article IV, section 6 or article V, section 2, the legislative power of the State of Michigan is vested in a senate and a house of representatives.

§ 31 General appropriation bills; priority, statement of estimated revenue.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

§ 51 Public health and general welfare.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

ARTICLE V EXECUTIVE BRANCH

§ 1 Executive power.

Sec. 1. Except to the extent limited or abrogated by article V, section 2, or article IV, section 6, the executive power is vested in the governor.

§ 18 Budget; general and deficiency appropriation bills.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

ARTICLE VI
JUDICIAL BRANCH

§ 1 Judicial power in court of justice; divisions.

Sec. 1. Except to the extent limited or abrogated by article IV, section 6, or article V, section 2, the judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

§ 28 Administrative action, review.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

ARTICLE VIII
EDUCATION

§ 5 University of Michigan, Michigan State University, Wayne State University; controlling boards.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

§ 6 Other institutions of higher education, controlling boards.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

§ 7 Community and junior colleges; state board, members, terms, vacancies.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

ARTICLE IX
FINANCE AND TAXATION

§ 17 Payments from state treasury.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

ARTICLE XI
PUBLIC OFFICERS AND EMPLOYMENT

§ 5 Classified state civil service; scope; exempted positions; appointment and terms of members of state civil service commission; state personnel director; duties of commission; collective bargaining for state police troopers and sergeants; appointments, promotions, demotions, or removals; increases or reductions in compensation; creating or abolishing positions; recommending compensation for unclassified service; appropriation; reports of expenditures; annual audit; payment for personal services; violation; injunctive or mandamus proceedings.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department. The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year. The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service. State Police Troopers and Sergeants shall, through their elected representative designated by 50% of such troopers and sergeants, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions which will be determined by competitive examination and performance on the basis of merit, efficiency and fitness; and they shall have the right 30 days after commencement of such bargaining to submit any unresolved disputes to binding arbitration for the resolution thereof the same as now provided by law for Public Police and Fire Departments. No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year. The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law. No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

