



South Dakota Catholic Conference

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Will South Dakota Continue to Protect Human Life?

On June 24, 2022, when the U.S. Supreme Court issued its ruling in *Dobbs v. Jackson Women's Health Organization*, South Dakota won the freedom to immediately begin enforcing a law passed in 2005 that protects preborn children and their mothers from the violence of abortion. The *Dobbs* decision overturned *Roe v. Wade*, a 1973 Supreme Court ruling that created a national entitlement to abortion and led to the deaths of approximately 64 million preborn children.

The end of *Roe* is a tremendous victory for the cause of safeguarding the dignity of every human life, from conception to natural death. While abortion remains legal in numerous places, the *Dobbs* decision at least gives states the freedom to adopt laws that protect preborn girls and boys from abortion – and we have done so in South Dakota.

Alarmingly, an effort is underway to overturn South Dakota's pro-life laws. A citizen-initiated proposal seeks to amend the state constitution to create a nearly unlimited right to abortion.

In his apostolic exhortation *Evangelii Gaudium*, Pope Francis warns us about political efforts that threaten the lives of preborn children:

“Among the vulnerable for whom the Church wishes to care with particular love and concern are unborn children, the most defenseless and innocent among us. Nowadays efforts are made to deny them their human dignity and to do with them whatever one pleases, taking their lives and passing laws preventing anyone from standing in the way of this.”
(*Evangelii Gaudium*, n. 213)

We have a responsibility, as a community that cherishes all human life, to become informed on this proposal that threatens the lives of preborn children, and to educate our fellow citizens.

Frequently Asked Questions

What is the name of the proposed amendment on abortion?

The Attorney General of South Dakota, who is required by law to summarize citizen-initiated ballot measures, has prepared the following title: “**An Initiated Amendment Establishing a Right to Abortion in the State Constitution.**”

What does the amendment propose to do?

The amendment would write into South Dakota's state constitution a sweeping right to obtain an abortion at any time up until the moment of birth. The Attorney General states the amendment “would override existing laws and regulations concerning abortion.”

What existing laws would be overridden by the amendment?

Most of the significant pro-life laws South Dakota has passed over the course of nearly five decades would be overturned or severely limited, including South Dakota’s 2005 law that prohibits abortion except in cases when a mother’s life is endangered by a pregnancy. The proposed amendment would also throw out or seriously weaken existing laws that prohibit:

- Sex-selection abortions (i.e., aborting a child for the sole reason of having an undesired sex).
- Aborting a child based on a Down syndrome diagnosis.
- Partial-birth abortions (where a child is partially delivered, and then killed).
- Aborting a preborn child who is capable of feeling pain.

When will this amendment appear on the ballot?

It *could* be placed on the ballot for the general election on November 5, 2024. To qualify the measure for the 2024 ballot, the sponsors must submit “a petition signed by qualified voters equal in number to at least 10 percent of the total votes cast for Governor in the last gubernatorial election.” (*South Dakota Constitution, Article XXIII, Section 1*). Based on the results of the Nov. 8, 2022 gubernatorial election, sponsors must collect just over 35,000 valid signatures.

When will supporters of the amendment begin gathering signatures?

The signature gathering effort started on November 5, 2022. Sponsors of the measure have up to one year from this date to collect the required signatures.

Does the amendment limit abortion in any way?

As a practical matter, no. The amendment divides pregnancy into three trimesters. In the first trimester of pregnancy, when most abortions occur, no limits whatsoever are allowed—even regulations designed to protect a woman’s health, such as requiring that an abortion be performed by a licensed doctor.

In the second trimester of pregnancy, abortion could be regulated “only in ways that are reasonably related to the physical health of the pregnant woman.” The interests of the *preborn child* could not be considered by the state when setting abortion policy. Thus, the amendment would permit late-term abortions of perfectly healthy preborn children, including those that are capable of surviving outside the womb.

Even in the third trimester of pregnancy, up until the moment of birth, the proposed amendment would permit abortions of healthy, viable, preborn children whenever it is deemed necessary to protect a woman’s “health.” The amendment does not define what “health” means. Instead, it leaves this issue to the sole discretion of a woman’s physician.

There are several court decisions that have construed the term “health” in very broad terms. For example, in the case of *Doe v. Bolton* (1973), the U.S. Supreme Court declared:

“We agree... that the medical judgment [concerning abortion] may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman’s age—relevant to the wellbeing of the patient. All these factors may relate to health.”

Does this amendment put *Roe v. Wade* into our state constitution?

The sponsors claim their proposal would “place a *Roe v. Wade* Constitutional Amendment on the ballot.” If true, this would be reason enough to oppose it. However, the amendment would impose an abortion policy even more radical and dangerous than what existed under *Roe v. Wade*. For example, states were allowed under *Roe* to require that women be provided counseling on the risks of abortion, and to establish a waiting period prior to undergoing an abortion. The proposed amendment in South Dakota would prohibit even these types of common-sense precautions.

Can the Governor veto this proposed amendment?

No. Constitutional amendments cannot be vetoed by the Governor, either before or after the amendment is ratified by voters.

Can the Legislature override or change this proposed amendment?

No. The legislature cannot override or change a proposed amendment prior to its ratification by voters. After an amendment has been ratified and added to the constitution, the legislature could propose a repeal or modification of the amendment, but this likewise would have to be ratified by a majority of voters at a subsequent election. The legislature has no unilateral authority to repeal or modify provisions of the state constitution.

What can be done to oppose the proposed amendment?

First, if you encounter someone in a public place seeking your signature on a measure concerning abortion, **do not sign it**. Please be aware that petition circulators may not use accurate language to describe the measure they are promoting. The petition may be described in a benign-sounding way, for example, as a measure to “protect women’s health” or “guarantee reproductive freedom.” Do not be deceived. Read the language at the top of the petition. If it says “**Title: An Initiated Amendment Establishing a Right to Abortion in the State Constitution,**” then realize this is a radical proposal to create a right to abortion throughout pregnancy, and to repeal South Dakota’s laws that protect preborn children and their mothers.

Second, take the time to educate your family members, friends, parishioners, and co-workers about the proposed amendment. *Urge them not to sign the petition.*

Third, make a personal commitment to join the campaign to stop this harmful measure. The **South Dakota Catholic Conference** (SDCC) will send out updates and alert you to opportunities where you can make a difference that will save lives. Please visit the SDCC website at www.sdccatholicconference.org. At the top right of the home page, click on “SIGN UP” to be added to the SDCC list.

Finally, pray that South Dakota will remain a state where all preborn children are welcomed in life and protected by law. Pope St. John Paul II exhorted us to pray fervently for the protection of vulnerable life:

“Let us therefore discover anew the humility and the courage to pray and fast so that power from on high will break down the walls of lies and deceit: the walls which conceal from the sight of so many of our brothers and sisters the evil of practices and laws which are hostile to life. May this same power turn their hearts to resolutions and goals inspired by the civilization of life and love.” (*Evangelium Vitae*, n. 100)

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