

Pro-Abortion Initiative Petitions in Missouri

(Prepared by Samuel H. Lee, Campaign Life Missouri, on 10/15/2023. Contact: samuelhlee@mindspring.com)

- **Initiative Petition Process for Proposed Constitutional Amendments.** (Much of this info on Missouri’s initiative petition process is from the Secretary of State’s (SOS) website, [here](#)).
 - Petitioners must submit proposed petitions to the Missouri SOS’s office. The SOS approves the proposed petition as to “form” (e.g., it has a signature page) and prepares ballot summary language. The proposed petition is also posted on the SOS’s website for public comment.
 - The Auditor also prepares a fiscal note and fiscal note summary for the proposed petition. The SOS’s office then certifies the official ballot title for the petition, which is the summary statement (100 words or less), followed by the fiscal note summary (50 words or less).
 - After the official ballot title is certified, petitioners can circulate their proposed petitions and collect signatures. **The petition pages must contain the official ballot title and the full text of the measure. Also, the official ballot title (the SOS’s summary statement and the Auditor’s fiscal note summary) is what voters will see on their ballot on election day.**
 - If the petitioners or any citizen is dissatisfied with the summary statement and/or the fiscal note/fiscal note summary, [they can file a suit in Cole County Circuit Court seeking to change them](#). **That is where we are in the process now on the 11 pro-abortion initiative petition – lawsuits were filed, and it is still in litigation. No signature collection has begun.**
 - Petition circulators must be at least 18 years old and registered with the SOS’s office. Any registered Missouri voter can sign an initiative petition.
 - Petitions to amend the constitution must be signed by eight percent of legal voters in any six of the eight congressional districts. That is a minimum of 171,592 signatures.
 - Next, petitioners submit these signatures to the SOS’s office. The [deadline is six months before the next general election date](#) – which in this case would be May 5, 2024.
 - The office distributes copies of the petition pages to local election authorities to verify that the signatures are those of registered Missouri voters in the correct congressional district.
 - Finally, the SOS’s office receives the verified signatures and determines whether the petition contains a sufficient number of valid signatures. If it does, the SOS’s office issues a certificate of sufficiency, stating that the petition shall be placed on the ballot for the general election – which in this case would be November 5, 2024.
- **11 Pro-Abortion Initiative Petitions to Amend Missouri’s Constitution filed in March.**
 - On March 8, 2023, Dr. Anna Fitz-James – a retired pediatrician with a newly-formed group called Missourians for Constitutional Freedom – filed 11 similar pro-abortion initiative petitions ([Petitions 2024-077 through 2024-087](#)) with the Missouri SOS.
 - The 11 initiative petitions would amend Missouri’s Constitution to require, in part, that:

- *The Government shall not deny or infringe upon a person’s fundamental right to reproductive freedom, which entails 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.*
- In addition, each petition would require in this or very similar language that:
 - *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.*
- The 11 petitions vary in other ways:

- Some claim to allow laws requiring parental consent before an abortion, while others are silent. But that is illusory, because the petitions state that if “*a health care professional*” (that could include a massage therapist, athletic trainer, podiatrist, etc.) determines the minor is “*mature*” enough to decide on her own or that “*obtaining consent would not be in the best interest of the minor,*” then the minor could obtain the abortion without parental consent – even without the parent’s knowledge!
- Some purport to allow restrictions on government funding of abortion, while others do not. But that is also deceptive, because each petition also states that the “*Government shall not discriminate against persons providing or obtaining reproductive health care or assisting another person in doing so.*”

Thus, if the state, local governments or a public college or university provides health insurance coverage (e.g., Medicaid, government employee or student health insurance, etc.) for prenatal care, childbirth or postpartum care, then such governmental entities could not “*discriminate*” by refusing to pay for abortions, abortion travel, childcare while obtaining an abortion, etc. And the taxpayers of Missouri would ultimately pay for it!

Likewise, if the state provides funding for, and tax credits for donations to, pro-life pregnancy resource centers and maternity homes, then the state could not “*discriminate*” by refusing to provide the same benefits to Planned Parenthood and other agencies which are “*providing*” abortions or are “*assisting another person*” in obtaining an abortion.

- Some appear to allow statutory restrictions on abortions after 24 weeks of pregnancy or after viability, while others make no mention of that. However, those petitions also contain an exception that swallows the rule, in that no statutory restrictions enacted by the legislature could deny or restrict an abortion “to protect the life or physical or mental health of the pregnant person” – even up to the moment of birth!

- **Current Status of the 11 Pro-Abortion Initiative Petitions.**

- On July 26, 2023, the [SOS certified the official ballot titles](#) (summary statements of 100 words or less and the fiscal note summary of 50 words or less) for all 11 initiative petitions.
- That same day, Dr. Fitz-James – represented by the ACLU of Missouri – [sued in Cole County Circuit Court challenging the SOS’s ballot summary language](#) as “argumentative against adoption of the Initiative ... misleading as to the Initiative’s probable effects, and prejudicial to [the] Initiative.” [She sued on six of the 11 summary statements](#) – all of which include statements from the SOS that the petitions would amend Missouri’s Constitution to:
 - *[A]llow for dangerous, unregulated, and unrestricted abortions, from conception to live birth, without requiring a medical license or potentially being subject to medical malpractice*
 - *[N]ullify longstanding Missouri law protecting the right to life, including but not limited to partial-birth abortion*
 - *[R]equire the government not to discriminate against persons providing or obtaining an abortion, potentially including tax-payer funding*
- In addition, Fitz-James lawsuit challenged the SOS’s summary statements on those petitions claiming to allow abortion restrictions after 24 weeks of pregnancy or after viability:
 - *[A]llow for laws to be enacted regulating abortion procedures after [24 weeks][Fetal Viability], while guaranteeing the right of any woman, including a minor, to end the life of their unborn child at any time*
- Meanwhile, three pro-life advocates – Rep. Hannah Kelly (R-Mountain Grove), Kathy Forck with Midwest March for Life and Sen. Mary Elizabeth Coleman (R-Arnold) – [filed suit on August 7, 2023](#), against the Auditor’s fiscal note summaries on all 11 initiatives, stating:
 - *The proposed amendments would allow the destruction of thousands of pre-born Missouri citizens a year, with profound consequences to Missourians that far eclipse financial concerns. ... The Auditor has ... failed to discharge his duty to generate a fiscal note summary that will advise Missouri voters.*
- [Their lawsuit](#) proposed an alternative, more accurate fiscal note summary, which takes into account future decreases in tax revenue from the loss of lives, and potential loss of billions of dollars in federal Medicaid reimbursements if any one of the petitions is approved:
 - *Local governmental entities estimate costs due to reduced tax revenues, which across the state could be estimated to cost millions of dollars annually. In addition, revenue losses to the State and additional health care costs to the State are unknown but could be billions of dollars annually.*
- On September 25, 2023, Cole County Circuit [Judge Jon Beetem ruled against both the SOS and the three pro-life activists](#). He [said](#) that the SOS’s summary statements were “problematic” and “argumentative or do not fairly describe the purposes or probable effect of the initiative”. Judge Beetem struck down all of the SOS’s summary statements,

removing any references that the petitions would “nullify longstanding Missouri law” and allow someone to “end the life” of an “unborn child” “at any time.”

- The judge wrote his own summary statements, that they would “establish a right to make decisions about reproductive health care, including abortion and contraceptives” and “allow regulation of reproductive health care to improve or maintain the health of the patient.”
- Judge Beetem also upheld the Auditor’s fiscal note summaries, stating that they were “fair and sufficient,” thus rejecting the more accurate pro-life summary statements.
- The Missouri Attorney General, on behalf of the SOS, [field an appeal that same day](#), and [the three pro-life activists filed an appeal the next day](#). The Western District Missouri Court of Appeals in Kansas City [will hear oral arguments on the cases on Monday, October 30, 2023](#).
- The outcome of this appeal is very important, because it will determine what kind of ballot measure description voters will read when asked to sign the initiative petition and when they vote in November 2024 – if one of the petitions makes it on the ballot.
- How the official ballot title describes the 11 pro-abortion initiative petitions is crucially important. A *Remington Research Group* [survey](#) conducted August 2-3, 2023, asked 834 likely Missouri voters in the November 2024 election (margin of error +/-3.4%) a question based on the SOS’s first summary statement bullet point – with this result:
 - *Do you support or oppose an amendment to the Missouri Constitution to allow for dangerous, unregulated, and unrestricted abortions, from conception to live birth, without requiring a medical license or potentially being subject to medical malpractice?*
Support: 22%
Oppose: 53%
Not sure: 25%
- And on August 30, 2023, in an email to supporters, *Abortion Action Missouri* (the former NARAL affiliate previously called *Pro-Choice Missouri*) wrote the following:
 - We’ve all heard the rumors: Missourians could have an opportunity to vote to restore our right to access abortion as soon as 2024. But what’s really going on? *And when can we take action?* ... Signature gathering can’t move forward until all the court proceedings wrap up, *and depending on court outcomes, may not move forward at all*. But in the meantime, Abortion Action Missouri wants to be ready.
- **Six New Pro-Abortion Initiative Petitions to Amend the Constitution filed August 30.**
 - A separate group – Jamie Corley with the [Missouri Women and Family Research Fund](#) – on August 30, 2023, filed six new pro-abortion initiative petitions that compete with the original 11, which she characterizes as a “[passable](#)” “[plan to restore legal but limited access to abortion in Missouri in 2024](#).” However, each would [allow abortions throughout all nine months of pregnancy when necessary to protect the “health” or “safety” of the woman](#). The SOS has not yet certified the official ballot titles for [Petitions 2024-129 through 2024-134](#).