

A Proposed Amendment for State Constitution Guaranteeing Women Unlimited Rights of Redress for Unwanted or Dangerous Abortions

Options for the Initiative Title:

- Safe Abortion Rights
- Protections Against Coerced and Unsafe Abortions

Version 1:

No statute or precedent shall deprive a pregnant woman the right to a medically safe abortion that is freely desired and consistent with her own values and preferences, nor shall any statute or precedent limit a woman's ability in civil court to recover damages of any type against any party who either performed, enabled, promoted, or assisted in an attempted or completed induced abortion that was unwanted, or was unsafe, or was medically unnecessary to achieve the individual woman's own goals and desires.

Version 2:

Any woman exposed to a coerced, unwanted, unsafe or unnecessary abortion shall have unwaivable and unlimited rights of recourse against any party who performed, referred, aided or abetted the abortion.

Version 3:

Except in cases of imminent threat of death, the rights of a woman undergoing an induced abortion to be fully informed of all statistically significant risks associated with abortion and to receive an evidence-based reasonable medical recommendation based on the woman's own unique risks versus benefits assessment shall not be abridged by any statute or precedent.

Version 4:

Any woman exposed to a coerced, unwanted, unsafe or unnecessary induced abortion shall have an unwaivable and unlimited rights of recourse against any party who performed, referred, aided or abetted said abortion for actual damages, punitive damages, mental suffering, emotional distress, psychological trauma, wrongful death of the aborted child, suffering, inconvenience, loss of society or companionship, loss of consortium, or injury to reputation, plus an award for reasonable costs and attorney's fees. Nor shall any statute or precedent limit a woman's ability in civil court to recover damages of any type against any party who either performed, enabled, promoted, or assisted in an attempted or completed induced abortion that was unwanted, or was unsafe, or was medically unnecessary to achieve the individual woman's own goals and desires. These rights of redress shall apply to any woman, the father of the aborted child, and her surviving parents and children.

Legal Goals

The objective would be to craft an amendment that would achieve as many of these goals as possible:

- Create a right to redress for emotional injuries even if no physical injury
- Eliminate statutes of limitations & damages caps on abortion associated injuries
- Create a right to redress for wrongful death of the unborn child (familial loss)
- Create a presumptive standard of care to screen for all statistically significant risk factors
- Create a presumptive standard to disclose all risks that are statistically associated with abortion
- Create a duty to provide an evidence-based reasonable medical recommendation based on each patient's documented versus benefits assessment
- Create a legal presumption that the woman would not have undergone the abortion if she had been fully informed of all risks, had received proper pre-abortion screening of risk factors, and had received an accurate evidence-based assessment of risks versus benefits.
- Allow suits by women exposed to unsafe abortions even if they do not go through with it
- Allow suits against non-physicians who refer for abortion or encourage, aid or abet self-abortions
- Allow rights of redress against abortion providers outside the state who advertise their services in the state or accept referrals from parties within the state

Political and Educational Goals

We are seeking to redirect the public conversation on abortion to the facts that (a) not all abortions are wanted by women, and (b) doctors can tell when abortion will not produce benefits that exceed the risks of individual women.

Our goal here is to shift the debate from "women should be free to choose" to "when is the choice for abortion actually free, safe, and beneficial, and how often is it coerced or otherwise a manipulation of women?"

The Process in California

One or more versions of the ballot initiatives should be [submitted to the Attorney General for an official title and summary](#). The latter may not exceed 100 words. The cost of obtaining a title and summary is a \$2,000 filing fee which is refunded if the initiative qualifies for the inclusion on the ballot.

Our goal here is to have an initiative with pro-woman details in it that it is impossible for the Attorney General to completely misrepresent the protections our initiative will extend to women. That is one reason why the first segment of Version 1 includes at least a partial affirmation of California's right to unlimited abortion, narrowing it only to "a medically safe abortion that is freely desired and consistent with her own values and preferences," language it would be difficult for the Attorney General to omit from the summary. Indeed, Version 1 is only 83 words, creating a good argument that it should be replicated completely in the summary, allowing only 17 words for the AG's interpretation.

If we obtain a ballot summary that appears reasonable, it will likely convey the core idea that women should not be denied right to redress for coerced and unsafe abortions...which is a no-brainer.

In that case my initial recommendation is to collect the signatures via church-based groups to test what we can achieve with a minimal expenditure of time and money. At that point, we will have the luxury of watching the pro-abortionists panic as they struggle to find a way to create a message to convince voters that women don't need protection from coerced and unsafe abortions. A reasonably good 100-word summary may not require a great deal of promotion, since on the face of it, to the average voter the idea of enabling women to hold doctors accountable for unwanted or unsafe abortions is a no-brainer.