



# Opposing Proposal 3

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## WEEK 1

This November, Michigan voters will be asked to consider Proposal 3 (the “Reproductive Freedom for All” proposal), which would amend Michigan’s Constitution to make abortion a fundamental right. As Catholics, we recognize that “Human life must be respected and protected absolutely from the moment of conception.” (CCC 2270). That is because every person is wonderfully made in the image and likeness of God and is therefore of immense worth. But we must also help our family members, friends, and neighbors understand that Proposal 3 goes much farther than merely restoring *Roe v. Wade*’s abortion regime. In fact, Proposal 3 invalidates more than two dozen Michigan pro-life laws and has many startling consequences.

For example, the proposal grants a fundamental right to reproductive freedom to “every individual”—with no age limits. So on its face, the proposal authorizes a minor to obtain an abortion without parental consent *or even notice*, even though a parent’s consent is *always* required to

dispense medicine or perform the most routine medical procedure for a minor. Proposal 3 supporters say that courts can put limits on this broad language. But that’s not true. A judge interpreting the Michigan Constitution must apply the words that the Constitution contains, and that means courts will be required to give effect to the broad phrase “*every individual*.”

No matter how a voter feels about abortion, Michigan’s Constitution should *not* be amended to strip parents of their right to be consulted before a minor child makes the serious decision to take her baby’s life. Please tell everyone you know: vote “**NO**” on Proposal 3 on November 8th.

**John Bursch is a constitutional lawyer and former Michigan Solicitor General.** Through Alliance Defending Freedom, he represents the Michigan Catholic Conference and Right to Life of Michigan in court to uphold Michigan’s pro-life laws.



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## WEEK 2

Last week, we discussed how Proposal 3 (the “Reproductive Freedom for All” proposal) would amend Michigan’s Constitution to make abortion a fundamental right, contrary to the Catholic Church’s teaching that life must be protected from the moment of conception. We also learned that Proposal 3 goes much farther than merely codifying *Roe v. Wade*, invalidating more than two dozen Michigan pro-life laws and authorizing minors to obtain abortions without a parent’s consent or even notice.

But there’s more. Proposal 3 defines “reproductive freedom” in a breathtakingly broad manner, to include “sterilization.” And again, because Proposal 3 grants this right to “every individual,” without age limits, that means the proposal, on its face, authorizes a minor to obtain a sterilization without parental consent or even notice, such as when a minor desires to change his or her gender. In addition, Proposal 3 authorizes every possible kind of abortion

procedure, defining “reproductive freedom” to include “abortion care.” Such language authorizes gruesome procedures like partial-birth abortion, where a child is partially delivered before an abortionist takes the baby’s life.

No matter how a voter feels about abortion, Michigan’s Constitution should *not* be amended to strip parents of their right to be consulted before a minor child makes the serious decision to undergo a sterilization procedure, nor should the Constitution authorize partial-birth abortions. Please tell everyone you know: vote **“NO”** on Proposal 3 on November 8th.

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## WEEK 3

For the past two weeks, we've been discussing Proposal 3 (the "Reproductive Freedom for All" proposal), and how it will amend Michigan's Constitution to create a startling broad right to abortion. In Week 1, we learned that the proposal's broad language (giving the right to "every individual") authorizes a minor to obtain an abortion without parental consent or notice. In Week 2, we learned that the same would be true if a minor sought a sterilization procedure, and that the proposal would also authorize partial-birth abortion.

Proposal 3's supporters say that the State will still be able to regulate abortion "after fetal viability." But that is grossly misleading. The proposal specifically allows abortion through all nine months of pregnancy—notwithstanding any contrary Michigan law—if an abortionist decides, in his professional judgment, that an abortion is necessary to protect the "physical *or mental health*" of the mother. As a legal matter, such a "mental health" exception is widely

acknowledged to be so broad as to justify abortion on demand until birth. An abortionist need merely document that the prospect of having a child is causing extreme anxiety and stress for the mother. And while Proposal 3 supporters say a judge won't have to allow such a broad exception, the proposal's language specifically requires courts to defer to the abortionist's "professional judgment."

No matter how a voter feels about abortion, Michigan's Constitution should *not* be amended to allow abortion on demand through all nine months of pregnancy. Please tell everyone you know: vote "**NO**" on Proposal 3 on November 8th.

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## WEEK 4

Over the last three weeks, we've been covering some of the more startling provisions contained in Proposal 3 (the "Reproductive Freedom for All" proposal). In addition to creating a State constitutional right to take the life of an innocent, unborn baby, the proposal's text authorizes minors to obtain abortions without parental consent or notification ("every individual" has the right), allows minors to obtain sterilization procedures without parental consent or notification (defines "reproductive freedom" to include "sterilization"), and permits mothers to take their child's life through nine months of pregnancy, provided that an abortionist says the abortion was necessary to protect the mother's "mental health," a truck-sized loophole.

In addition, Proposal 3 limits the State's power to pass pro-life laws unless the law supports a "compelling state interest achieved by the least restrictive means." In the legal world, this standard is known as "strict scrutiny," and the government can almost never satisfy it. In fact, the U.S. Supreme Court *rejected* strict scrutiny as the appropriate standard for analyzing pro-life laws in *Planned Parenthood v. Casey*. But Proposal 3 goes farther, defining a "compelling" state interest only as one "for the limited purpose of protecting the

health of an individual seeking care." Incredibly, that means the State would be prohibited from passing a law to stop abortions based on the baby's sex, race, or disability, or even for the purpose of protecting the unborn baby's life! And any such laws cannot interfere with the mother's "autonomous decision-making," replacing the familiar "informed consent" standard that applies to every medical procedure with a watered-down "voluntary consent" standard.

No matter how a voter feels about abortion, Michigan's Constitution should *not* be amended to prohibit the State from passing laws that protect innocent, unborn life or to pass safety regulations for abortion procedures that ensure mothers are fully informed before they choose to take their baby's life. Please tell everyone you know: vote **"NO"** on Proposal 3 on November 8th.

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## WEEK 5

We've used the last month to shine a spotlight on the extraordinarily broad language used in Proposal 3 (the "Reproductive Freedom for All" proposal) that will appear on the ballot this November. The proposal does far more than simply codify *Roe v. Wade* in our State Constitution. As we've discussed, Proposal 3 invalidates more than two dozen Michigan pro-life laws, authorizes minors to obtain abortion and sterilization without parental consent or even notice, effectively allows abortion through all 9 months of pregnancy, and prohibits the Stat from enacting laws that would protect an unborn baby's life or even to stop abortions based on sex, race, or disability.

At least women would be protected from unsafe abortion practices, right? Not at all. Proposal 3 authorizes the State to pass limited laws protecting the health of the mother, but only "consistent with accepted clinical standards of practice and evidence-based medicine." Who establishes "accepted clinical standards of practice" for abortions? Abortionists! Unlike any other area of medical practice, where doctors

and nurses are subjected to all manner of laws to ensure patient safety, abortionists alone would get to decide whether they want to follow a Michigan health and safety law. If abortionists disagree that hospital admitting privileges are important, they can decline to follow a law that requires them. If abortionists think that laws regulating the safety standards for surgical centers are unnecessary for abortion clinics, they can ignore them with impunity.

No matter how a voter feels about abortion, Michigan's Constitution should *not* be amended to give abortionists complete control over deciding what Michigan health and safety laws they must follow. Please tell everyone you know: vote **"NO"** on Proposal 3 on November 8th.

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## WEEK 6

This is now our 6th week discussing the startlingly broad language of Proposal 3 (the “Reproductive Freedom for All” proposal). In addition to violating the Church’s teaching that every human life is sacred and must be protected from conception, the proposal allows minors to obtain sterilizations as well as abortions without parental consent or even notice, effectively allows abortion on demand through 9 months of pregnancy, prevents the State from protecting unborn life or stopping discrimination based on a baby’s sex, race, or disability, and effectively exempts abortionists from health and safety regulations.

It gets worse. In subsection (3), Proposal 3 says that the state shall not “penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting” a mother in obtaining an abortion. That means if a teacher or counselor takes a student to obtain an abortion without notifying the child’s parents, there are no legal consequences. If someone assists with an abortion—even if they have

no medical license or training whatsoever—there can also be no legal consequences. Most bizarrely, if an abortionist engages in gross negligence and severely harms or kills the mother as well as her child during an abortion, he will have a constitutional defense to any malpractice claim: Michigan’s Constitution would prevent the State from imposing an “adverse action,” i.e., a state-court judgment, against him.

No matter how a voter feels about abortion, Michigan’s Constitution should *not* be amended to allow non-medical providers to assist in abortions and to absolve abortionists of medical-malpractice liability. Please tell everyone you know: vote “**NO**” on Proposal 3 on November 8th.

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## WEEK 7

This is our 7th and final week to review the actual language of Proposal 3 (the “Reproductive Freedom for All” proposal). Unsurprisingly, the proposal violates Church teaching about the sacredness of all human life beginning at conception. Shockingly, the proposal also authorizes minors to obtain abortions and sterilizations without parental consent or even notice, effectively allows abortion on demand through 9 months of pregnancy, prevents the State from protecting unborn life or stopping discrimination based on a baby’s sex, race, or disability, effectively exempts abortionists from health and safety regulations, and permits non-medical professionals to assist with abortions while potentially absolving abortionists from medical-malpractice lawsuits. Is it any surprise that Proposal 3’s supporters did not publish the proposal’s full text on their website until *after* petition signature gathering was over?

There are plenty of additional provisions of Proposal 3 that we could address, but we only have time for one more. Subsection (2) says that the “state shall not discriminate in the protection or enforcement of this fundamental right.” The Michigan Supreme Court has previously held that Michigan can limit taxpayer funding for abortions. But supreme

courts of Alaska, California, Massachusetts, Minnesota, and New Jersey have all held that an independent state constitutional right to abortion means the state cannot restrict public funding of abortions. And Proposal 3’s anti-discrimination law makes it a near certainty the same will happen here. So not only will abortion on demand be the law in Michigan, but all of us will likely have to pay for it—even if it violates our deepest religious beliefs about the value and dignity of unborn, human life.

No matter how a voter feels about abortion, Proposal 3 is terrifying. This extreme proposal would make Michigan an outlier, not only in the United States but around the world. And the Michigan Legislature and courts would have very few tools to do anything to combat the proposal’s language, which appears intentionally overbroad. Please tell everyone you know: vote **“NO”** on Proposal 3 on November 8th.

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