



# *How to Respond to Myths and False Claims About Proposal 3*

The following are examples of what supporters may say about Proposal 3. Study these responses so that you can help your family and friends better understand the consequences of this dangerous constitutional amendment.

**THEY SAY** "Michigan residents should have the constitutional right to abortion care and reproductive freedom."

**WE RESPOND** Women already have the right to reproductive care in the state of Michigan. Women have access to prenatal, postpartum and infertility care. Pregnancy help centers provide support and referrals for women unable to see a doctor. Abortion is not reproductive care as it harms women mentally and physically and guarantees that of the two patients involved, one will die.

**THEY SAY** "This amendment would ensure access to abortion and reinstate what was legal under *Roe v. Wade*"

**WE RESPOND** This amendment would allow abortion for any reason, at any point in the pregnancy, for a woman or teen at any age, and allow anyone to conduct an abortion without legal consequences. Together, that would take abortion regulations far beyond anything that was ever allowed under *Roe*. It also doesn't solely apply to abortion as, for example, a parent would lose consent should a child seek to modify his or her biological gender.

**THEY SAY** "Decisions on abortion should remain between a woman and her doctor"

**WE RESPOND** With this amendment, nonphysicians would be able to conduct abortions, undermining the notion that women would be making these decisions with the help of an appropriately licensed physician.

The amendment would block the state from prohibiting abortions in cases where "in the professional judgment of an attending health care professional," the abortion "is medically indicated to protect the life or physical or mental health of the pregnant individual."

Under Michigan law, "health care professional" means more than just a physician, as that definition also includes

dentists, chiropractors, massage therapists, acupuncturists, counselors, and psychologists, to name a few examples.

The language also says the state could not "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."

Because of that, a school counselor, for example, could take a 13-year-old girl to get an abortion, contraception or undergo sterilization without telling her parents, and there is nothing her parents could legally do when they find out what has taken place.

**THEY SAY** "This amendment ensures women will not be prosecuted for having a miscarriage/abortion."

**WE RESPOND** There is no history of women being prosecuted in Michigan for either of those circumstances. In addition, the Michigan Supreme Court has ruled that a woman receiving an abortion cannot be charged. State law also explicitly defines abortion as not including miscarriage.

**THEY SAY** "This amendment stops the government from prosecuting women who experience miscarriages or ectopic pregnancies."

**WE RESPOND** Abortion is an intentional act to destroy a life, whereas a miscarriage is a spontaneous action within a woman's body. An ectopic pregnancy is when a fertilized egg implants outside the uterus, where it cannot survive. Receiving treatment for an ectopic pregnancy or suffering from a miscarriage is not the same as abortion. Both state law and the Michigan Supreme Court are clear that women rightfully cannot be prosecuted for an abortion.

**THEY SAY** "This amendment allows for women to have autonomy over their own bodies."

**WE RESPOND** A pregnant woman carries inside her a human life that deserves the same dignity that she should be afforded. If a woman becomes pregnant unexpectedly or unwillingly and she feels she is unable or unwilling to parent her child, there are options to ensure the baby is safe.

These options include the state's adoption process or the Safe Delivery Law, which allows a mother to surrender her newborn for adoption, no questions asked.

**THEY SAY** "This amendment still allows for late-term abortions to be restricted."

**WE RESPOND** The amendment creates broad exceptions to any ban enacted on late-term abortions, including for reasons related to mental health. Therefore, a pregnant woman could claim that any anxiety or stress she may be feeling gives the right to a second or even third-trimester abortion.

**THEY SAY** "This amendment still allows the state to restrict/regulate abortion after viability."

**WE RESPOND** This amendment changes the definition of fetal viability to no longer mean when the baby can survive outside the womb, instead defining viability as when a baby can survive outside of the womb without "extraordinary medical measures."

This means that a prematurely born infant who needs intensive medical treatment could be considered not viable in the eyes of the mother and the "healthcare professional," who does not have to be a licensed physician under the amendment language.

**THEY SAY** "Over 700,000 Michiganders signed this proposal to put it on the ballot, which shows how widely supported it is."

**WE RESPOND** Paid petition gatherers are not legally required to tell people everything that a proposal would do. Thus, it is likely that most people who signed the petition did not read the proposal or understand the reality of what they were signing. People from various backgrounds, including those who say they are pro-choice, overwhelmingly oppose partial-birth abortion and support health and safety regulations on abortion clinics. This proposal would give constitutional protections to third-trimester abortions up to birth and likely revoke state law that requires abortion facilities to be licensed and inspected.

**THEY SAY** "This proposal would not wipe away parental consent and other health and safety laws that are on the books."

**WE RESPOND** Proposal 3, as described by its own summary, specifically says that state laws conflicting with this amendment will be invalidated. And even if there are open questions on the legal interpretation of the abortion proposal, those open questions would need to be settled by the courts, meaning years of expensive litigation that will have to be funded by taxpayers. If this proposal were to pass, Michigan would immediately become one of the most permissive, anything goes abortion jurisdictions in the country. ■

## Opposing Proposal 3

### 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.

**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.