

REFLECTIONS ON THE PROPOSED AMENDMENT TO THE STATE CONSTITUTION: This November, Marylanders will be asked to consider an amendment to the State Constitution. The language is very vague and ambiguous. Below are five reflections you might find helpful in discerning its meaning and significance.

THE AMENDMENT TO THE MARYLAND CONSTITUTION STATES:

“That every person, as a central component of an individual’s rights to liberty and equality, has the fundamental right to reproductive freedom, including but NOT LIMITED TO the ability to make and effectuate decisions to prevent, continue, or end one’s own pregnancy. The state may not, directly or indirectly, deny, BURDEN, or abridge the right unless justified by a compelling state interest achieved by the least restrictive means.”

Note: The above text is the proposed Maryland Constitutional Amendment. The language that will appear on the ballot will be slightly different. (See the last page.)

Reflection 1: “That every person, as a central component of an individual’s rights to liberty and equality, has the fundamental right to reproductive freedom,”

Question 1: What is the meaning of “reproductive freedom” in the amendment? Does freedom mean doing whatever we want?

Question 2: Is reproductive freedom truly a “central component” to a person’s right to liberty and equality? What about other bodily systems? Are they equally central to our right to liberty and equality? Notice the amendment omits an individual’s right to life!

Question 3: What is the source of our identity and dignity as human persons? Is it solely our body or are we more than our bodies? Do our fundamental rights to liberty and equality apply to only our body or do they apply to some aspect of our being?

Question 4: When a woman and man give themselves to one another and in a sense “become one”, who has the right to the new life they may beget? Is the child a “right” or a “gift to be shared”?

Notes:

Reflection 2: *That every person, as a central component of an individual's rights to liberty and equality, has the fundamental right to reproductive freedom...*

Question 1: Is a child in the womb a person? If so, doesn't that child's personhood give it the fundamental right to reproductive freedom as well as to other rights, such as the right to life? If a child in the womb is not considered a "person", when does that child become a person with acknowledged rights? Who has the authority to decide when personhood begins? From where or whom does that authority come?

Question 2. The family has long been the fundamental unit of society responsible for overseeing the raising, early education and socialization of their children. There is no age limit assigned to the individuals whose rights to liberty and equality are addressed in the amendment. What implications are there for the traditional rights and responsibilities parents have for raising their minor children? Could minor children sue their parents for not respecting their rights to reproductive freedom? Could the state charge parents with criminal behavior? Could the state remove a child from its family? What are the implications of this amendment for fostering or adopting children?

Notes:

Reflection 3: *That every person, as a central component of an individual's rights to liberty and equality, has the fundamental right to reproductive freedom, including but NOT LIMITED TO the ability to make and effectuate decisions to prevent, continue, or end one's own pregnancy.*

Question 1. What other fundamental reproductive rights (other than the ability to make and effectuate decisions to prevent, continue or end one's own pregnancy) might be covered by the amendment, ie fall in the category of "NOT LIMITED TO"?

Question 2: Who will decide what other fundamental reproductive rights are covered by the amendment?

Question 3; Why are contraception and abortion the only reproductive rights specified in the amendment?

Notes:

Reflection 4: *The state may not, directly or indirectly, deny, BURDEN, or abridge the right unless justified by a compelling state interest achieved by the least restrictive means.*

Question 1: To what person, group of persons, institution or groups of institutions does the term “state” refer? And by what process will it make its decisions regarding this amendment? What is the authority (source) behind the rights addressed in this amendment and our federal rights of life, liberty and the pursuit of happiness?

Notes:

Reflection 5: *Should the amendment be approved, how might other human rights and “freedoms” be impacted?*

Question 1: How might the freedom of conscience rights of people in the health care and medical profession be impacted should their consciences not let them perform or be involved in certain reproductive treatments and procedures?

Question 2: How might the religious freedom of schools, hospitals and other institutions be impacted should their guidelines or foundational principles be inconsistent with reproductive procedures and treatments that are allowed by this amendment?

Question 3: How might freedom of speech be impacted?

Question 4: How might a woman’s freedom to obtain information and medical assistance that will help her make an informed decision be impacted?

Notes:

THE BALLOT will say (not required to match amendment language):

Question 1 - Constitutional Amendment (Ch. 245 of the 2023 Legislative Session)

Declaration of Rights – Right to Reproductive Freedom

The proposed amendment confirms an individual’s fundamental right to reproductive freedom, including but NOT LIMITED TO the ability to make and effectuate decisions to prevent, continue, or end the individual’s pregnancy, and provides the State may not, directly or indirectly, deny, burden, or abridge the right unless justified by a compelling State interest achieved by the least restrictive means.

For the Constitutional Amendment

Against the Constitutional Amendment