



# 2022 Ballot Questions

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# Citizens Research Council

- Founded in 1916
- Statewide
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- Promotes sound policy for state and local governments through factual research – accurate, independent and objective
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- Slide Deck: [www.crcmich.org](http://www.crcmich.org) and click on EVENTS
- Proposal 1: <https://crcmich.org/publications/statewide-ballot-proposal-22-1-term-limit-reform-and-financial-disclosure>
- Proposal 2: <https://crcmich.org/publications/statewide-ballot-proposal-22-2-promote-the-vote-2022>
- Proposal 3: <https://crcmich.org/publications/statewide-ballot-proposal-22-3-reproductive-freedom-for-all>

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# Eric Lupher, President



- Work Experience
  - 35 years with Citizens Research Council
  - Local Government Affairs
  - Research Director
- Policy Background
  - Taxation
  - Intergovernmental relations
  - State Constitution
- Education
  - MPA in Public Administration from Wayne State University
  - BA in International Relations from James Madison College in Michigan State University

# Craig Thiel, Research Director



- Work Experience
  - 2006 - present: Citizens Research Council
  - 1997 – 2006: House and Senate Fiscal
  - 1995 - 1997: Secretary of State
- Policy Background
  - State budget and taxation
  - K-12 education
  - Transportation
  - Inter-governmental relations
- Education
  - MPA, Wayne State University
  - BA, Kalamazoo College

# Karley Abramson, Research Associate



- Work Experience
  - 2022-present: Citizens Research Council
  - 2018-2022: Legislative Service Bureau
  - 2016-2018: University of Michigan
- Policy Background
  - Health policy
  - Human Services
  - Civil rights
  - K-12 Education
- Education
  - JD, University of Michigan School of Law
  - MPH, University of Michigan School of Public Health
  - BA, University of Michigan

# Run of Show

- Questions will be posed by our friends from MIRS News
- Viewers may ask questions through the GoToWebinar software
  - They will be answered through the chat or in emails after the webinar
- The webinar is being recorded and will be posted with responses to questions on the events page of our website
- The Citizens Research Council of Michigan does not take positions on ballot issues. In analyzing the questions on the November ballot, we hope to provide more information so that you, the voters can make better informed decisions in formulating their votes.

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It started off looking like it would  
be a busy elections season



# Efforts to Qualify for 2022 Ballot

- ~~Secure MI Vote\*~~
- ~~Unlock Michigan II\*~~
- ~~Let MI Kids Learn A\*~~
- ~~Let MI Kids Learn B\*~~
- ~~MI Right to Vote A~~
- ~~MI Right to Vote B~~
- ~~Audit MI~~
- ~~Raise the Wage MI~~
- ~~Michigan United~~
- ~~Michigan Initiative for Community Healing~~
- ~~Yes on National Popular Vote~~
- ~~Michiganders for Fair Lending~~
- Voters for Transparency and Term Limits
- Promote the Vote 2022
- Reproductive Freedom for All

\* Petitions submitted in efforts to secure legislative enactment without threat of veto

# Proposal 1

## Term Limit Reform and Financial Disclosure

# Proposal 1 Ballot Language

**A proposal to amend the state constitution to require annual public financial disclosure reports by legislators and other state officers and change state legislator term limit to 12 total years in legislature.**

This proposed constitutional amendment would:

- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general file annual public financial disclosure reports after 2023, including assets, liabilities, income sources, future employment agreements, gifts, travel reimbursements, and positions held in organizations except religious, social, and political organizations.
- Require legislature implement but not limit or restrict reporting requirements.
- Replace current term limits for state representatives and state senators with a 12-year total limit in any combination between house and senate, except a person elected to senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?  YES  NO

# Term Limits and Financial Disclosure

- A Constitutional Amendment to:
  - Allow elected members of the legislature to serve a total of 12 years in the House, Senate, or a combination
    - Currently 6 in House & 8 in Senate
    - Change from “terms” to “years”
  - Will change how legislators use eligibility
    - Instead of Representatives positioning for Senate seats
    - Most legislators will use eligibility in House or Senate

# Increase or Reduce Legislative Service

- 737 people served in the Michigan Legislature from 1992 to 2022
- 675 people served as Representatives
  - 60% served 3 terms, 24% 2 terms, 16% 1 term
- 160 people served as Senators
  - 66% served 2 terms, 33% 1 term
- 98 Senators (61%) were Representatives first
  - Of these, 42 (43%) served the maximum – 3 House, 2 Senate
- 42 of 737 legislators = 6% that would have been affected by the reduction from 14 yrs to 12
  - Another 5% have served 12 years
- 89% of past legislators would find themselves with eligibility

# State Legislative Term Limit Provisions

<u>Limit in Years</u>	<u>Consecutive</u>	<u>Lifetime Ban</u>
8 Total		Nebraska (2006)*
12 Total	Arkansas (2020)***	Oklahoma (2004/2004) California (2012)**
14 Years (6 House/8 Senate)		Arkansas (1998/2000)*** California (1996/1998)** <b>Michigan (1998/2002)</b>
16 Total		Arkansas (2014)***
16 Years (8 House/8 Senate)	Arizona (2000/2000) Colorado (1998/1998) Florida (2000/2000) Maine (1996/1996) Montana (2000/2000) Ohio (2000/2000) South Dakota (2000/2000)	Missouri (2002/2002)
24 Years (12 House/12 Senate)	Louisiana (2007/2007)	Nevada (2008/2008)

Note: Numbers in parentheses indicate year of impact in the House first and the Senate second.

\* Nebraska has a unicameral legislature.

\*\* In 2012, California voters revised the state's term limits so that legislators may serve 12 years in total in either chamber.

\*\*\* In 2014, Arkansas voters passed a ballot measure extending term limits to a 16-year lifetime total. In 2020, a new ballot measure altered Arkansas term limits to allow state legislators to 12 consecutive years with the opportunity to return after a four-year break. The 12-year limit applied to anyone elected in 2021 or after.

Source: National Conference of State Legislatures.

# Goals of Term Limits

- **Restoration of Accountability**
  - Rotation of legislators has increased
  - Gerrymandering has created “safe” seats so little rotation of ideology
- **Restoration of Electoral Competition**
  - Forced turnover has increased opportunities to run for office
  - Party leaders have recruited chosen candidates
- **Reduction of Special Interest Influence**
  - Lobbyists jobs harder – meeting and educating new legislators
  - Lobbyists have supplanted district input and trusted senior legislators
- **Increased Diversity**
  - More women and minorities
  - More diversity in non-term limited governments, business, civic organizations

# Long vs Short Term Limits

- Proponents of Proposal 1 argue that term limits have
  - **Increased the Focus on Electioneering**
    - Increased partisanship
    - Shifted legislators use of time away from meetings in district, executive branch oversight, subject matter education, etc.
  - **Created an Unwillingness to Tackle Difficult Political Issues**
    - Delay actions until termed out of office
    - Leave matters for next class of legislators
  - **Weakened Chamber Leadership**
    - Speaker of House (and minority party counterpart) – 2 terms experience
    - Senate Majority Leader (and counterpart) – 2 House terms = 1 Senate term
    - Focus on fundraising for rank-and-file member elections



# Term Limits and Financial Disclosure

- Increase financial transparency for state elected officials
  - Affects Governor, Lt. Governor, Secretary of State, Attorney General, members of Michigan House of Representatives and Michigan Senate
  - Requires enactment of a law for financial disclosure
  - Assets, income, liabilities, positions held, arrangements for future employment, gifts received, payments made and reimbursements received for travel, payments made to a charity in lieu of honoraria
- Legislature can do this with or without a constitutional amendment

# Proposal 2

## Promote the Vote 2022

# Ballot Language

## **A proposal to amend the state constitution to add provisions regarding elections**

This proposed constitutional amendment would:

- Recognize fundamental right to vote without harassing conduct;
- Require military or overseas ballots be counted if postmarked by election day;
- Provide voter right to verify identify with photo ID or signed statement;
- Provide voter right to single application to vote absentee in all elections;
- Require state-funded absentee-ballot drop boxes, and postage for absentee applications and ballots;
- Provide that only election officials may conduct post-election audits;
- Require nine days of early in-person voting;
- Allow donations to fund elections, which must be disclosed;
- Require canvass boards certify election results based only on the official records of votes cast.

Should this proposal be adopted?  YES  NO

# Motivation Behind Promote the Vote 2022

- Success of Promote the Vote 2018 constitutional amendment
  - Key provisions: no-reason absentee, straight-party ticket, automatic voter registration
  - Approved by 67% voters on November 2018 ballot
- Protect current voting- and elections-related procedures and processes from future legislative changes by enshrining them in state constitution
  - 39-bill package introduced in Michigan Senate (Spring of 2021)
  - Several of these bills passed by Republican majorities in House and Senate
  - Status: most bills vetoed by Governor Whitmer
- Safeguard against the contemporaneous Secure MI Vote statutory initiative
  - Citizen-led petition to change voting and election laws, including stricter voter identification, limit absentee ballot applications, and prohibit private funding of elections
  - Status: petitions submitted, awaiting certification by Board of State Canvassers

# What's in the Proposal?

Would create some *NEW* legal rights and enshrine some *EXISTING* provisions into state constitution:

- Recognize voting as a fundamental right. *Existing*
- Require military or overseas ballots be counted if postmarked by Election Day and received within six days of election. *New*
- Provide voters the right to verify identity with a signed statement if they cannot produce government issued identification. *Existing*
- Require a new state-funded system for tracking submitted absentee voter applications, including prepaid postage for return applications and voted ballots. *New*
- Require the state to fund at least one secure drop box per city and township for absentee ballots. *New*
- Allow voters to request an absentee ballot for all future elections. *New*
- Require nine days of in-person early voting. *New*
- Require election audits be conducted in public, by state and county election officials, based on established guidelines to promote accuracy and transparency. *Existing*
- Require canvassing boards to certify election results based only on the official record of votes cast. *Existing*

# Voter Identification

- Proposal 2 would codify current voter identification practices into the state constitution
  - Under current law, registered voters appearing in-person on election day are allowed to vote a regular ballot by presenting picture identification to an elections official or, if they don't have identification, sign an affidavit attesting to their identification
  - Voters who sign an affidavit have their ballots tabulated at the polling place
- Proposal 2 also stipulates that voters who sign an affidavit would not be required to vote a provisional ballot
  - Intended to thwart Secure MI Vote voter identification provisions
  - A registered voter who does not present identification would be required to vote a provisional ballot
  - Voters would then have six days after an election to appear in person at the local clerk's office to present identification to have their provisional ballot tabulated

# Absentee Voting

- Since Michigan voters approved a constitutional right to “no reason” absentee voting in 2018 the use of this voting method has exploded
- Proposal 2 affirms current voter identification practice and procedures
  - Eligible voters prove their identity by supplying a signature (checked against state’s Qualified Voter File) when requesting an absentee ballot or when voting by mail
  - Intended as safeguard against Secure MI Vote provision that would require voters supply their driver license number, state-issued personal identification number, or last four digits of their social security number when they apply for an absentee ballot
- Proposal 2 would allow registered voters to request an absentee ballot for all future elections by making a single, signed application – effectively permanent absentee voter lists
  - Five states allow local clerks to maintain permanent absentee voter lists
- Additionally, Proposal 2 provides state-funding for postage on absentee ballot applications and returned ballots; drop boxes in every community; statewide absentee ballot tracking system

# Early, In-person Voting

- Guarantees access to a minimum of nine days of early, in-person voting
  - Separate from current 40-day, mail-in absentee voting period
  - Required for all federal and statewide elections (permissive for all other elections)
  - Early voting would be subject to all current laws and regulations governing in-person voting on Election Day
  - Cities and townships would be prohibited from reporting results of early voting
- Michigan would join 34 other states that currently provide this option
  - States' practices vary across many dimensions; start/end dates, period length
- Neighboring local governments allowed to coordinate early voting sites or contract with county clerk to conduct early voting



# Potential Impacts

- Concerns with adoption/expansion of early voting and absentee voting center around the potential for an increase in voter fraud
  - No evidence to suggest that absentee voting is more prone to fraud than in-person voting
  - Michigan has many safeguards to protect the integrity and security of absentee voting
  - Mail-in voting may change HOW voting occurs, but does not materially impact voter turnout; no evidence of partisan advantage
- Concerns around stricter voter identification laws focus on improving election integrity (proponents) and suppressing minority vote (opponents)
  - Research is mixed here – while strict identification requirements may suppress the vote of minority populations, they also increase efforts to facilitate voter turnout among these groups

# Potential Fiscal Impacts

- Several provisions would add new costs to administer future elections, these will primarily fall on cities and townships
  - Notably, the requirement to provide a minimum of nine days of early, in-person voting
  - These costs will come from existing local funding sources
  - Provides opportunities for local governments to share in these costs and seek economies of scale
- Some provisions require the State of Michigan to pick up the new costs (e.g., postage for absentee ballot applications)
  - But state funding source is not identified

# Key Takeaways

- Many of the provisions are currently part of Michigan Election Law
  - Key Issue – whether these policies should be enshrined in the state’s fundamental law – the state constitution
  - Doing so makes it more difficult to modify or remove them (can be good or bad)
  - Insulates them from legislative responsibility and discretion
- Every new voting/elections-related process and procedure could be adopted by the Michigan Legislature without a constitutional mandate to do so
  - Part of the legislature’s constitutional roles and responsibilities to regulate elections
- Interaction with Secure MI Vote petition (if approved)
  - Where a conflict exists, constitutional language would take precedent over initiated law

# Proposal 3

# Reproductive Freedom For All

# Ballot Language

**A proposal to amend the state constitution to establish new individual right to reproductive freedom, including right to make all decisions about pregnancy and abortion; allow state to regulate abortion in some cases; and forbid prosecution of individuals exercising established right**

This proposed constitutional amendment would:

- Establish new individual right to reproductive freedom, including right to make and carry out all decisions about pregnancy, such as prenatal care, childbirth, postpartum care, contraception, sterilization, abortion, miscarriage management, and infertility;
- Allow state to regulate abortion after fetal viability, but not prohibit if medically needed to protect a patient's life or physical or mental health;
- Forbid state discrimination in enforcement of this right; prohibit prosecution of an individual, or a person helping a pregnant individual, for exercising rights established by this amendment;
- Invalidate state laws conflicting with this amendment.

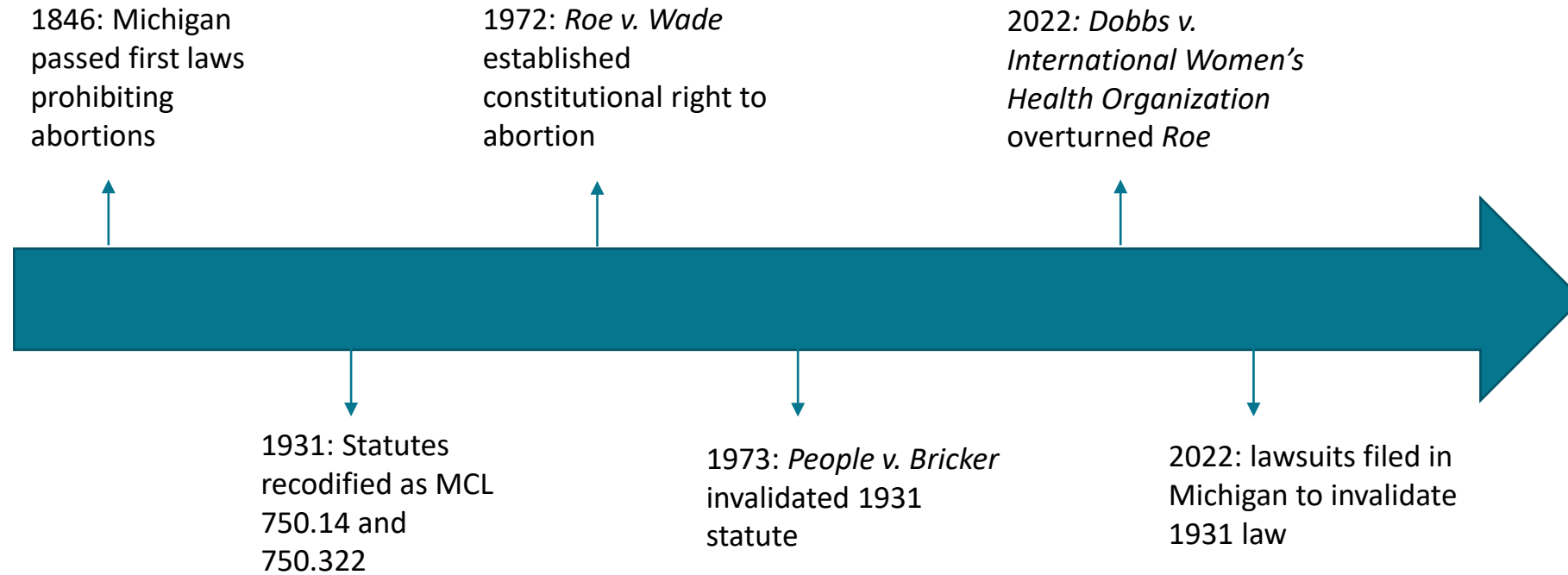
Should this proposal be adopted?

YES  NO

# Overview

- Timeline and history of laws governing abortion
- Summary of Proposal 3 and key provisions
- Three pathways forward and potential impact

# Timeline of Laws Governing Abortion



# Fundamental Rights

- The Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> amendments guarantee that no individual shall be “deprived of life, liberty, or property, without due process of the law”
  - Includes both procedural rights and substantive (fundamental) rights
- Fundamental rights are significant enough to individuals that they can only be infringed upon by the government for very limited reasons
  - Government must show a compelling state interest
  - Law must be narrowly tailored and the least restrictive means for accomplishing that interest
- Examples: privacy (right to marry, contraception), freedom of speech, freedom of religion



# What is Proposal 3?

- Response to *Dobbs* ruling – effort to protect the right to abortion
- Petition-initiated proposed constitutional amendment
  - Adds Section 28 to Article I of the Michigan Constitution of 1963
- Referred to as Reproductive Freedom For All
  - Establishes reproductive procedures and treatments related to pregnancy as fundamental rights

# Key Provisions

- Defining reproductive freedom
  - “the right to make and effectuate decisions about all matters related to pregnancy”
  - Strict scrutiny standard for pre-viability procedures
  - Cannot restrict the life or health of mother post-viability
- Non-discrimination
  - State prohibited from discriminatory protection and enforcement of this right
- Protection against prosecution

# Key Provisions

- Compelling state interest
  - Must protect the health of the person seeking care
  - Consistent with accepted clinical standards of practice
  - Cannot infringe on individual's autonomous decision-making
- Fetal viability
  - The point in pregnancy in which there is a significant likelihood of the fetus' sustained survival outside of the uterus, without the application of extraordinary medical measures
  - Depends on particular facts of case and the professional judgment of health care professional
- Execution of the amendment

# Potential Pathways

- (1) No constitutional right to abortion – Proposal 3 is rejected by voters and no right is established by the Michigan Supreme Court
- (2) Explicit constitutional right to abortion – Proposal 3 is adopted by voters, creating an explicit right to abortion (pre-viability) in the Michigan Constitution
- (3) Implicit constitutional right to abortion – Proposal 3 is rejected but the Michigan Supreme Court finds an implicit right to abortion in the Michigan Constitution

# Pathway One – No constitutional protections for abortion

- No explicit right to abortion is established by amendment, and no implicit right to abortion is established by the fundamental right to bodily integrity in the Michigan Constitution
- Regulations on abortion and other reproductive care will be left to the legislative process
  - Current Michigan statute prohibits abortions in all cases except when necessary to preserve the life of the mother
  - Legislature could pass different laws on abortion that could be more or less restrictive than the current statute

# Pathway One - Impact

## Legal Impact

- Providers vulnerable to prosecution and imprisonment for continuing services
- Language of 1931 law may be challenged in court
- Enforcement of any law may vary depending on preferences of local county prosecutors

## Societal Impact

- Reduction in the number of abortions performed
- Increase in birth rate
- Burdens on state services
- Physical/mental health risks
- Health disparities exacerbated by variable enforcement

# Pathway Two – Proposal 3 creates an explicit constitutional right to abortion

- Individuals will retain the access to abortion they had prior to the Dobbs decision, with fewer legal hurdles, and may have increased access to abortion at later stages of pregnancy
- Applies to a wider range of health care services
  - May apply to significantly more people
- Protects the right to abortion from legislative override
  - Only another constitutional amendment could potentially eliminate or curtail this right

# Pathway Two - Impact

## Legal Impact

- Broad, undefined language invites legal challenges
  - “Individual”
  - Physical/mental health risks
  - Ban on public funding
- Unclear which laws could be impacted if proposal passes
  - Informed consent
  - Insurance opt-out

## Societal Impact

- Abortion legalization has generally been shown to benefit women and society at large
- Limited data on expanding abortion access to this degree



# Pathway Three: MSC finds an implicit constitutional right to abortion

- Court of Claims found that the 1931 law is invalid – violates the Michigan constitutional right to bodily integrity
- MSC has yet to weigh in
- Fundamental right established judicially may be narrower than the right to abortion established by Proposal 3
- Parameters of this right could be restricted by legislation
- Future courts could overturn this right

# Takeaways

- Reversal of Roe necessitates substantial legal and policy changes
- Proposal 3 could potentially expand access to abortion to later stages of pregnancy, lift certain restrictions that have previously been in place, and establish additional rights to a wider range of reproductive health services
- While abortion legalization has been shown to have positive effects on women and society at large, the impact of this expansive of a constitutional right is unknown
- The proposal's language is broad and largely undefined, making it vulnerable to a host of legal challenges
- If the proposal fails, MSC may still find a constitutional right to abortion
- Current Michigan abortion laws are among the strictest in the country, but its enforcement by local county prosecutors could vary widely across the state

# Questions

John Reurink



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# Citizens Research Council of Michigan

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