

## STATE QUESTION NUM. 6

Amendment to the *Nevada Constitution*

Initiative Petition C-05-2023

Should the *Nevada Constitution* be amended to create an individual’s fundamental right to an abortion, without interference by state or local governments, whenever the abortion is performed by a qualified healthcare professional until fetal viability or when necessary to protect the health or life of the pregnant individual at any point during the pregnancy?

Yes .....

No .....

### EXPLANATION & DIGEST

**EXPLANATION**— This initiative, if approved by the voters, amends the *Nevada Constitution* to create a constitutional right to abortion.

This right to abortion would apply from the start of a person’s pregnancy up until the start of “fetal viability,” unless the pregnant person needs medical care to protect that person’s life or health, in which case the right applies throughout the pregnancy. “Fetal viability” means “the point in pregnancy when, in the professional judgment of the patient’s treating health care practitioner, there is a significant likelihood of the fetus’ sustained survival outside the uterus without the application of extraordinary medical measures.”

The initiative makes clear that the State of Nevada, including county and city governments in Nevada, generally cannot not interfere with this right. But a state, county, or city government can interfere with the right if there is a “compelling state interest” in doing so. A “compelling state interest” exists only if the government uses the least restrictive means to protect or improve the pregnant person’s life or health in ways that follow clinical standards of practice.

Lastly, this proposed right to abortion does not require or force any individual in Nevada to have an abortion. Instead, it creates a right that allows an individual to make their own decision.

**A “Yes” vote would create a new section of the *Nevada Constitution* to establish a person’s constitutional right to abortion, so that a person can make decisions about matters relating to abortion and reproductive healthcare, without interference from state or local governments.**

**A “No” vote would keep the *Nevada Constitution* in its current form and would not impact the availability of abortion as a statutory right under Nevada law.**

**DIGEST**—Existing law states that abortions are legal in Nevada and must occur within 24 weeks after the start of the pregnancy. An exception currently exists to allow an abortion after 24 weeks if a physician reasonably believes that an abortion is necessary to preserve the pregnant person’s life or health. Existing law also requires that abortions performed after the 24th week of pregnancy be performed in a hospital licensed by the State of Nevada.

If approved by the voters, this ballot measure would add a new section to Article 1 of the Nevada Constitution with the following information.

Section 1 of this amendment to the *Nevada Constitution* would create a “fundamental right to abortion.” This means that the *Nevada Constitution* would make abortion a legal option for all individuals, not just Nevadans, that is protected by the *Nevada Constitution*. The proposed amendment also includes the right to have an abortion procedure done by a qualified healthcare professional.

The amendment proposes that the right to an abortion would extend until “fetal viability, or when needed to protect the life or health of the pregnant patient.” “Fetal viability” means “the point in pregnancy when, in the professional judgment of the patient’s treating health care practitioner, there is a significant likelihood of the fetus’ sustained survival outside the uterus without the application of extraordinary medical measures.”

If the abortion would be necessary to protect the pregnant person’s life or health, the proposed amendment allows an abortion procedure to be carried out after the start of fetal viability.

The proposed amendment would also generally prevent the State of Nevada or any of its political subdivisions (e.g., the Nevada Legislature, county and city governments) from interfering with the constitutional right to abortion. State and local governments can interfere with this right only if they have a “compelling state interest” in doing so. A “compelling state interest” exists only if the government uses the least restrictive means to protect or improve the pregnant person’s life or health in ways that follow clinical standards of practice.

Section 2 of the proposed constitutional amendment states that if any part of the amendment is challenged in court, then the rest of the amendment is not affected and remains in force. This section ensures that the right to abortion is protected to the greatest extent possible in the event of future lawsuits.

## **ARGUMENTS FOR PASSAGE**

Decisions about abortion should be left to women and qualified healthcare professionals, who take a pledge to act in their patients’ best interest. When it comes to something as personal and complicated as pregnancy, politicians are never more qualified to make healthcare decisions than women and their doctors. That’s why it is so important to vote YES on this amendment.

People across Nevada are voting YES because:

- YES protects doctors so that they will never have to risk jail time just to treat the patient in front of them<sup>1</sup>.
- Extreme abortion bans are already in place across the country – from Texas<sup>2</sup> to Florida<sup>3</sup> to right next door in Utah and Arizona – and they are having dangerous effects. A 10-year-old girl from Ohio who was raped had to travel to Indiana to get the abortion she needed<sup>4</sup>, and in Texas, one woman who miscarried lost liters of blood and had to go on a breathing machine before doctors could legally help her<sup>5</sup>. YES protects the right to abortion in our state for good, so these tragic stories can never happen here.

- YES establishes a permanent layer of protection<sup>6</sup> so that no matter who holds office in our state, extreme abortion bans<sup>7</sup> cannot become law in Nevada.

YES keeps families – not politicians – in charge of their own healthcare decisions, so that women can make these personal decisions in consultation with their doctors and those they love and trust.

We should trust women and doctors to make the right decisions for their own situations without government getting involved. If this amendment fails, future generations could have fewer rights and freedoms than their parents and grandparents<sup>8</sup>. Vote YES to keep politicians out of our personal, private decisions.

Question 6 has no fiscal or environmental impact.

<sup>1</sup>Pierson, Brenden. “Texas AG Threatens to Prosecute Doctors in Emergency Abortion | Reuters.” *Reuters*,\*\*\*.reuters.com/legal/texas-judge-allows-woman-get-emergency-abortion-despite-state-ban-2023-12-07/. Accessed 25 July 2024.

<sup>2</sup>Weber, Paul J., and Jamie Stengle. “Texas Governor Defends Abortion Law with No Rape Exceptions.” *AP News*, AP News, 8 Sept. 2021, apnews.com/article/health-texas-dallas-laws-greg-abbott-3717a0258b598eba06bb1baf90b645f4.

<sup>3</sup>Fischer, David, and Stephany Matat. “Florida’s 6-Week Abortion Ban Takes Effect as Doctors Worry Women Will Lose Access to Health Care.” *AP News*, AP News, 1 May 2024, apnews.com/article/florida-abortion-ban-9509a806453e1eab50d118aaecffa2f1.

<sup>4</sup>Helmore, Edward. “10-Year-Old Rape Victim Forced to Travel from Ohio to Indiana for Abortion.” *The Guardian*, Guardian News and Media, 3 July 2022, \*\*\*.theguardian.com/us-news/2022/jul/03/ohio-indiana-abortion-rape-victim.

<sup>5</sup>Tanner, Lindsey. “Abortion Laws Spark Profound Changes in Other Medical Care.” *AP News*, AP News, 16 July 2022, apnews.com/article/abortion-science-health-medication-lupuse4042947e4cc0c45e38837d394199033.

<sup>6</sup>From constitutional amendment text: “All individuals shall have a fundamental right to abortion... The right established by this section shall not be denied, burdened, or infringed upon...”

<sup>7</sup>Lieb, David A., and Geoff Mulvihill. “Missouri Lawmakers Propose Allowing Homicide Charges for Women Who Have Abortions.” *PBS*, Public Broadcasting Service, 8 Dec. 2023,\*\*\*.pbs.org/newshour/politics/missouri-lawmakers-propose-allowing-homicide-charges-for-women-whohave-abortions.

<sup>8</sup>Pfannenstiel, Kyle. “Idaho Is Losing Ob-Gyns after Strict Abortion Ban. but Health Exceptions Unlikely This Year. • Idaho Capital Sun.” *Idaho Capital Sun*, 5 Apr. 2024, idahocapitalsun.com/2024/04/05/idaho-is-losing-ob-gyns-after-strict-abortion-ban-but-health-exceptions-unlikely-this-year/.

*The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Lindsey Harmon (Chair), Denise Lopez, and Bradley Schragar. This argument can also be found at [www.nvsos.gov](http://www.nvsos.gov).*

## **REBUTTAL TO ARGUMENTS FOR PASSAGE**

Do you want courts and judges making decisions about pregnancy instead of women and doctors?<sup>1</sup>

Vote NO to stop courts from invading your personal, private medical decisions.

Vote NO to protect our current abortion laws.<sup>2</sup> There literally cannot be “*any reasonable degree of certainty*”<sup>3</sup> *what laws will change or how much you will have to pay to fund abortion* with Question 6. Vote NO.

Do you want to spend *millions of taxpayer dollars* to fund abortions through all 9-months of pregnancy? Do you want to write a *blank check to use taxpayer money to pay for abortions*?<sup>4</sup> Last year, California spent *\$200 million*<sup>5</sup> on an abortion- funding package to pay for abortions<sup>6</sup> and even to create a website explaining how to have the state pay for an abortion “at no cost to you.”<sup>7</sup> Don’t want that policy? Vote NO.

Here's a list of people NOT mentioned in Question 6:

- Women and girls – No specific protection.
- Mothers and parents – No specific protection.
- Doctors – No specific protection.

A young mother in Las Vegas recently bled to death after taking abortion pills.<sup>8</sup> Protect our current law, women and doctors, keep the courts out of our personal lives, and vote NO.

<sup>1</sup>Silver State Hope Fund vs. *The State of Nevada ex rel. Nevada Dept. of Health and Human Services, Division of Health Care Financing and Policy*, (Case NO. A-23-876702-W), Eighth Judicial District Court Clark County, Nevada (lawsuit financed by the ACLU to force Nevada taxpayers to pay for more abortions as a result of the “yes” vote for Question 1 on the 2022 Ballot).

<sup>2</sup>The Nevada Legislative Counsel Bureau (Aug. 1, 2024)  
<https://www.nvsos.gov/sos/home/showpublisheddocument/14294/638581076670730000>.

<sup>3</sup>The Nevada Legislative Counsel Bureau (Aug. 1, 2024)  
<https://www.nvsos.gov/sos/home/showpublisheddocument/14294/638581076670730000> (this nonpartisan government body analyzed the language of Question 6 and concluded that “it is not known how the Legislature may revise existing laws if they are determined to not comply with these provisions, the financial effect upon the State or local governments cannot be determined with any reasonable degree of certainty”).

<sup>4</sup>The Nevada Legislative Counsel Bureau (Aug. 1, 2024)  
<https://www.nvsos.gov/sos/home/showpublisheddocument/14294/638581076670730000> (concluding that the financial impact of a “yes” vote on Question 6 simply “cannot be determined”).

<sup>5</sup>Gov. Gavin Newsom, “New Protections for People Who Need Abortion Care and Birth Control, *Bill package builds upon more than \$200 million in state funding to create abortion.ca.gov, cover uninsured care,*” <https://www.gov.ca.gov/2022/09/27/new-protections-for-people-who-need-abortion-care-and-birthcontrol/>.

<sup>6</sup>California Abortion Access: How to Pay for an Abortion, Official Website of the State of California,  
<https://abortion.ca.gov/getting-an-abortion/how-to-pay-for-an-abortion/index.html>.

<sup>7</sup>California Abortion Access: How to Pay for an Abortion, Official Website of the State of California,  
<https://abortion.ca.gov/getting-an-abortion/how-to-pay-for-an-abortion/index.html>.

<sup>8</sup>“Nevada woman’s death after taking abortion pills spurs lawsuit, safety fears,” *Washington Times* (Sept. 28, 2023) <https://www.washingtontimes.com/news/2023/sep/28/nevada-womans-death-after-taking-abortionpills-sp/>.

*The above rebuttal was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Emily Mimnaugh (Chair) and Jason Guinasso. This argument can also be found at [www.nvsos.gov](http://www.nvsos.gov).*

## **ARGUMENTS AGAINST PASSAGE**

Vote NO to stop Question 6 from re-writing our State Constitution.

Vote No to stop Question 6 from writing a blank check to fund unlimited, 9-month abortions using taxpayer money.<sup>1</sup>

Question 6 may *force you the taxpayer to pay for abortions.*<sup>2</sup> The cost and fiscal impact of Question 6 cannot be determined.<sup>3</sup> It may cost taxpayers MORE than *\$120-million-dollars every year.*<sup>4</sup>

Vote NO to protect our current abortion law. Abortion is legal in Nevada.<sup>5</sup> Currently, doctors can do abortions—without restriction—up to 24 weeks (6 months).<sup>6</sup> After that, it’s also allowed to save the mom’s life or health.<sup>7</sup>

Our current law is more pro-choice than *Roe v. Wade*.<sup>8</sup> Only voters can change our state's abortion law, and it hasn't changed in decades.<sup>9</sup> Unlike Nevada, other states have recently changed their abortion laws, and "*litigation has exploded*."<sup>10</sup> Vote NO to keep the courts out of private, personal decisions.<sup>11</sup>

If you like the current law, protect it: Vote NO. If you don't like the current law, vote NO so it's not even harder to fix.<sup>12</sup>

Question 6 has no bright-line rule saying when abortion is legal. Is it always legal at 4 months? 6 months? 9 months? Our current law is clear. Question 6 is not.

Question 6 has no bright-line rule saying when taxpayers must pay for abortions. Do taxpayers pay for an optional abortion at 9 months? Our current law is clear. Question 6 is not.

What about doctors? Can a non-doctor perform a surgical abortion at 9 months outside a hospital? Question 6 may not stop this, but the current law protects women. *Vote NO*.

What about parents? Can a non-doctor perform a secret surgical abortion on a 13-year-old girl? Question 6 may not stop this, but the current law protects children and parents. *Vote NO*.

When laws are unclear, the result is expensive lawsuits.<sup>13</sup> The legal, fiscal and environmental impacts of Question 6 are unknown.<sup>14</sup> Lawsuits cost taxpayers money.<sup>15</sup>

Vote NO because Question 6 is:

- *Dangerous*: It lets people who aren't doctors do abortions.
- *Wrong*: It allows abortions through all 9 months of pregnancy.
- *Harmful*: It strips out rules that keep women safe.
- *Expensive*: It may cause lawsuits and cost millions to fund abortions.
- *Unwanted*: It changes our current abortion laws which are clear.

Keep our laws clear. Keep tax spending transparent. Keep courts out of abortion. Keep decisions between women and doctors. *Vote NO*.

<sup>1</sup>The total cost cannot be known, and a single abortion can cost "\$15,000 or more" according to the State of Nevada Division of ("DPBH"), "Abortion Information for Nevadans," <https://dpbh.nv.gov/Programs/MIP/AbortionInNevada/> (For a "later pregnancy" using "induction abortion" procedure to "induce labor and delivery," the cost is "\$8,000 to \$15,000 or more" for each delivery, labor and abortion procedure)

<sup>2</sup>The Nevada Legislative Counsel Bureau (Aug. 1, 2024), <https://www.nvsos.gov/sos/home/showpublisheddocument/14294/638581076670730000> (this non-partisan government body analyzed the language of Question 6 and concluded that "it is not known how the Legislature may revise existing laws if they are determined to not comply with these provisions, the financial effect upon the State or local governments cannot be determined with any reasonable degree of certainty).

<sup>3</sup>See Notes 1-2.

<sup>4</sup>An abortion in Nevada can cost anywhere from "\$500" for a chemical abortion to "\$15,000 or more" for an induction abortion, according to the State of Nevada Division of ("DPBH"), "Abortion Information for Nevadans," <https://dpbh.nv.gov/Programs/MIP/AbortionInNevada/>; *The Nevada Independent*, "Indy Explains: What happens to Nevada's abortion laws if Roe is overturned?," (May 2, 2022), <https://thenevadaindependent.com/article/indy-explains-what-happens-to-nevadas-abortion-laws-if-roe-is-overturned> (estimating that approximately 8,000 to 10,000 abortions were performed annually in Nevada between 2017 and 2019, with the predication that more would follow if Nevada became an abortion "refuge.").

<sup>5</sup>See Nevada Revised Statute (NRS) § 442.250 (Question 7 on the 1990 Nevada Ballot).

<sup>6</sup>Nevada Division of Public and Behavioral Health (“DPBH”), “Abortion Information for Nevadans,” <https://dpbh.nv.gov/Programs/MIP/AbortionInNevada/>.

<sup>7</sup>NRS § 442.250

<sup>8</sup>*The Nevada Independent*, “Indy Explains: What happens to Nevada’s abortion laws if Roe is overturned?” (May 2, 2022), <https://thenevadaindependent.com/article/indy-explains-what-happens-to-nevadas-abortion-laws-if-roe-is-overturned>

<sup>9</sup>See Notes 5-8.

<sup>10</sup>*Reuters*, “Abortion rights: Tracking state lawsuits two years after Roe reversal” (“Nearly two years after the U.S. Supreme Court overturned its landmark 1973 ruling in *Roe v. Wade*, litigation over abortion has exploded”), <https://www.reuters.com/world/us/us-abortion-rights-still-flux-two-years-after-roe-reversal-2024-06-17/>.

<sup>11</sup>For example, *Silver State Hope Fund vs. The State of Nevada ex rel. Nevada Dept. of Health and Human Services, Division of Health Care Financing and Policy*, (Case NO. A-23-876702-W), Eighth Judicial District Court Clark County, Nevada (lawsuit to force Nevada taxpayers to pay for more abortions as a result of the “yes” vote for Question 1 on the 2022 Ballot).

<sup>12</sup>See above Notes 10-11.

<sup>13</sup>See Notes 10-11.

<sup>14</sup>See Note 1.

<sup>15</sup>See Notes 10-11.

*The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Emily Mimnaugh (Chair) and Jason Guinasso. This argument can also be found at [www.nvsos.gov](http://www.nvsos.gov).*

## **REBUTTAL TO ARGUMENTS AGAINST PASSAGE**

The people against this amendment are lying to scare voters. Nevadans know that a woman may end a pregnancy for many different reasons. We also know that women and doctors do not decide on an abortion later in pregnancy unless there is a serious reason, like a risk to her life or pregnancy.

And this amendment does nothing to change parental rights in Nevada, because we all want young people to get the support they need from those who love them when making decisions.

All this amendment does is ensure families – not politicians – are in charge of their own health care decisions and can make the right choice for their unique situations without government getting in the way.

When families are making difficult, personal medical decisions, one-size-fits all laws don’t work. As bans across the country are already putting lives at risk, this amendment adds a permanent layer of protection for abortion rights in Nevada so that no matter who holds office in our state, these extreme bans cannot become law here.

Again, this amendment has no fiscal or tax implications.

*The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Lindsey Harmon (Chair), Denise Lopez, and Bradley Schrager. This argument can also be found at [www.nvsos.gov](http://www.nvsos.gov).*

## FISCAL NOTE

### FINANCIAL IMPACT – CANNOT BE DETERMINED

#### OVERVIEW

The Statewide Constitutional Initiative Petition – Identifier: C-05-2023 (Initiative) proposes to amend Article 1 of the *Nevada Constitution* by adding a new section, designated as Section 25, establishing a fundamental right to abortion performed or administered by a qualified health care practitioner until fetal viability, or when needed to protect the life or health of the pregnant patient, without interference from the state or its political subdivisions, unless the denial of that right is justified by a compelling state interest that is achieved by the least restrictive means.

#### FINANCIAL IMPACT OF THE INITIATIVE

Pursuant to Article 19, Section 2 of the *Nevada Constitution*, an initiative proposing to amend the *Nevada Constitution* must be approved by the voters at two successive general elections in order to become a part of the Constitution. If this Initiative is approved by voters at the November 2024 and November 2026 General Elections, the provisions of the Initiative would become effective on the fourth Tuesday of November 2026 (November 24, 2026), when the votes are canvassed by the Supreme Court pursuant to NRS 293.395.

If this Initiative is approved by the voters at the November 2024 and November 2026 General Elections, the Legislature may be required to evaluate existing laws governing abortion to determine whether they are in compliance with the provisions of this amendment. If it is determined that existing laws are not in compliance, it is possible that the amount of resources utilized by the State or local governments for the administration or enforcement of new abortion laws that would comply with these provisions may be affected.

However, because it is unknown what laws, if any, may not be in compliance with the provisions of the Initiative, nor is it known how the Legislature may revise existing laws if they are determined to not comply with these provisions, the financial effect upon the State or local governments cannot be determined with any reasonable degree of certainty.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 1, 2024