

Dear Attorney General Vargo:

As members of the South Dakota Legislature for many years, and as sponsors and co-sponsors of a significant number of statutes designed to protect the rights of pregnant mothers and their children in utero, we submit these comments to the Attorney General's draft of his explanation of the proposed amendment to the South Dakota State Constitution that would create a right to an abortion. This amendment, if passed, would operate to completely repeal and revoke all of the work we have done on behalf of the people of South Dakota in this area of the law.

It is, therefore, essential that the description of the amendment and its essential nature and import be unambiguous.

In particular (although it is not our only objection), we take exception to the first line of the "Explanation" that states "This constitutional amendment establishes a framework for the regulation of abortion."

This statement is misleading.

This amendment to the state constitution would create a new constitutional right, a right to have an abortion where no such right currently exists either under the state constitution or the U.S. Constitution.

The A.G.'s explanation should clearly state that "this constitutional amendment establishes a new right to have an abortion."

At the current time, the state constitution supports the existing law that forbids performance of all abortions unless one is required to save the life of the mother.

The way the introduction is currently phrased may mislead the reader into believing that the amendment actually extends to the legislature a new power to regulate, a power that it currently has and which the constitutional amendment would revoke.

To that same end the two paragraphs following that introductory sentence does not clearly state that the new right to an abortion would actually operate to prohibit the state from banning any abortions in the first two trimesters and take away the state's ability to protect the lives of the children of the state and to protect the real rights of South Dakota's pregnant mothers.

The amendment would strip the state's current authority to prohibit abortions and any meaningful regulation of abortions in the first two trimesters. The voters are entitled to know what they are asked to approve and that really must be stated in plain language.

Respectfully yours,
Senator Al Novstrup
Representative Fred Deutsch