

CONSTITUTIONAL INITIATIVE 128 (CI-128) FACT SHEET

Abortion is Already Legal in Montana

- Abortion is currently legal in Montana up to the point of fetal viability – generally at 24 weeks of pregnancy, with some exceptions for after viability.
- Doctors, physician assistants and Advanced Practice Registered Nurses can perform abortions.
- Before performing an abortion on an underage girl, abortionists are required to notify her parents, with some exceptions.
- Mifepristone, or the “abortion pill” is available in Montana through abortion providers in-person and via Telehealth.

Who is Behind CI-128?

Montanans Securing Reproductive Rights (MSRR) is the coalition that drafted and is promoting CI-128. MSRR partners are:

- Planned Parenthood Advocates of Montana
- ACLU Montana
- Forward Montana
- The Fairness Project

Who is Funding CI-128?

Top Donors as of June 25th are all out-of-state:

- Sixteen Thirty Fund (D.C.): \$650,000
- The Fairness Project (D.C.): \$500,000
- Think Big America-MT (D.C.): \$500,000
- Advocacy Action Fund (CA): \$250,000
- ACLU Foundation, Inc. (NY): \$250,000
- GISWF-Montana (VA): \$250,000
- Delaney Family Trust (CA): \$100,000
- Robert Stavis (NY): \$100,000
- Gwendolyn Sondheim (CA): \$100,000
- Elizabeth Simmons (CA): \$100,000

Parental Notification is at Risk

In 2012, Montanans voted 70% to 30% to require parental notification 48 hours before an abortion for girls under 16—the only remaining law in Montana ensuring parents are informed. CI-128 would abolish this law, just as the Montana Supreme Court struck down a parental consent requirement this August.

Undefined Terms Create Bad Laws

"Fetal viability"

What specific criteria determine "fetal viability"? How many weeks? What medical standards are applied? How do they affect the timing of when viability is determined?

"Healthcare Professional"

Who, in the many healthcare professions, has the legal authority to determine matters like fetal viability, medical necessity, and the protection of the pregnant patient's life or health?

"Life or health of the pregnant patient"

What is included in "health"? Is this limited to physical health? Does it include mental and emotional health?

"Burdened" and "Burden"

Does a burden include any inconvenience or delay? Does burden include any common-sense regulation to protect a pregnant girl or unborn baby?

"Autonomous decision making"

How is "autonomous decision making" understood, and what legal or medical standards support this autonomy?

"Voluntary consent"

What is the definition of "voluntary consent", especially in cases involving minors or vulnerable individuals?

"Bona fide health risk"

What is considered a "bona fide health risk," and what standards support the definition? Who has the authority to define bona fide health risk?

BALLOT LANGUAGE FOR CONSTITUTIONAL INITIATIVE NO. 128 (CI-128)

CONSTITUTIONAL INITIATIVE NO. 128

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI-128 would amend the Montana Constitution to expressly provide a right to make and carry out decisions about one's own pregnancy, including the right to abortion. It would prohibit the government from denying or burdening the right to abortion before fetal viability. It would also prohibit the government from denying or burdening access to an abortion when a treating healthcare professional determines it is medically indicated to protect the pregnant patient's life or health. CI-128 prevents the government from penalizing patients, healthcare providers, or anyone who assists someone in exercising their right to make and carry out voluntary decisions about their pregnancy.

YES on Constitutional Amendment CI-128

NO on Constitutional Amendment CI-128

THE COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. 128 (CI-128)

Article II of the Montana Constitution is amended to read:

Section 36. Right to make decisions about pregnancy.

- (1) There is a right to make and carry out decisions about one's own pregnancy, including the right to abortion. This right shall not be denied or burdened unless justified by a compelling government interest achieved by the least restrictive means.
- (2) The government may regulate the provision of abortion care after fetal viability provided that in no circumstance shall the government deny or burden access to an abortion that, in the good faith judgment of a treating health care professional, is medically indicated to protect the life or health of the pregnant patient.
- (3) The government shall not penalize, prosecute, or otherwise take adverse action against a person based on the person's actual, potential, perceived, or alleged pregnancy outcomes. The government shall not penalize, prosecute, or otherwise take adverse action against a person for aiding or assisting another person in exercising their right to make and carry out decisions about their pregnancy with their voluntary consent.
- (4) For purposes of this section:
 - (a) A government interest is "compelling" only if it clearly and convincingly addresses a medically acknowledged, bona fide health risk to a pregnant patient and does not infringe on the patient's autonomous decision making.
 - (b) "Fetal viability" means the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.