

PROPOSITION 1

IT'S NOT JUST WHAT IT SAYS. IT'S WHAT IT DOESN'T SAY.

Key provisions to read before you vote

SECTION 2(a) - "EVERY PERSON" AND PARENTAL RIGHTS

Proposition 1 states that "Every person has the right to reproductive freedom and privacy," including decisions about abortion. The provision does not distinguish between adults and minors.

CONCERN: The proposition does not specifically say that a 13-year-old can obtain an abortion without parental consent, but this provision also does not itself require parental knowledge or consent. Voters should ask how this language would interact with Idaho's existing parental-involvement laws.

SECTION 2(d) - ASSISTING ANOTHER PERSON

Any person or entity may voluntarily "advise, assist, facilitate, inform, refer, or otherwise aid" another person exercising these rights. State interference is limited by the standard stated in the proposition.

CONCERN: This section contains no express exception for an abuser, trafficker, or person responsible for a minor's pregnancy. A question for voters is how the provision would interact with investigations of abuse or trafficking when someone helped a minor obtain an abortion.

SECTIONS 2(b) AND 5(f) - "HEALTH CARE PROVIDER"

The right to privacy includes reproductive health care decisions made in consultation with a "health care provider." Proposition 1 defines that term as "a licensed person or an entity that provides health care or medical treatment."

CONCERN: That definition is broad. Licensed health professionals can include physicians, nurses, nurse practitioners, physician assistants, dentists, pharmacists, psychologists, physical therapists, acupuncturists, and others, along with hospitals, clinics, and laboratories. Separate scope-of-practice laws may still determine what a particular professional may legally perform.

SECTION 4 - CONTROLLING OVER IDAHO CODE

Proposition 1 says its provisions are to be "liberally construed in favor of reproductive freedom and privacy" and are intended to "control over any other section of Idaho Code," subject to the qualifications stated in Section 4.

CONCERN: What happens to existing Idaho laws concerning abortion, minors, parental involvement, and other protections if a court finds that they conflict with rights created by Proposition 1?

SECTIONS 3(a), 5(d), 5(g) AND 5(i) - VIABILITY AND MEDICAL EMERGENCIES

After fetal viability, Idaho may regulate abortion except in cases of "medical emergency." Fetal viability is determined case by case using a physician's good-faith medical judgment. The medical-emergency definition likewise relies on a physician's good-faith medical judgment and includes protecting life or avoiding serious jeopardy to health, serious impairment of bodily function, or serious dysfunction of an organ or body part.

CONCERN: The proposition establishes no fixed week for viability and no final gestational cutoff for its medical-emergency exception. It also does not state in these provisions that, when a viable child could be delivered alive, the physician must choose a method intended to preserve the child's life.

READ THE ACTUAL LANGUAGE FOR YOURSELF

Official source: Idaho Secretary of State - Reproductive Freedom and Privacy Act