

A hypothetical California constitutional right to reproductive liberty

Overview

The document below is the hypothetical text of a possible California constitutional amendment and potential proponent's argument, as an academic example of the sort of action that California's legislature could, in theory, take if it wished. California Constitution Center fellows developed this after a conversation with Lieutenant Governor Eleni Kounalakis as an academic thought problem in the hypothetical case of a U.S. Supreme Court decision that removed federal constitutional protection for abortion. No one knows for sure if or when that might happen, so this is only one possible academic approach to what is at present a purely hypothetical scenario that may never occur. We make no argument, take no position, and suggest no action in response. We merely speculated that this could be an interesting matter of educational and public interest on a California constitutional law question, and wondered what one possible answer to a particular theoretical scenario might look like. This serves the educational purpose of facilitating a robust discussion in a California constitutional law course about federalism, state sovereignty, and primacy of state constitutions in securing individual liberty. We advocate for no one, no position, no vote, and no action.

This intended as an informational communication for educational purposes only, for free and open discussion, and as a fair academic presentation of the facts and law, and not for political or campaign purposes. No campaign is in progress and no vote is imminent on this issue, and this is made because of a particular interest of the audience (students of California constitutional law) in receiving the information. This does not advance a position or promote a vote; it neither supports nor opposes any candidate for elective office or any political party; nor does it campaign for or support or oppose any measure that has qualified for the ballot. Titles and insignia are for identification only. This does not state a University of California position, and

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