



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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September 6, 2023

Eric M. Reed
158 Jerome St., Apt. 1
Medford, MA 02155

Re: Initiative Petition No. 23-09: A Law to Affirm Our Constitutional Birthright to be a Person

Dear Mr. Reed:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, we have reviewed the above-referenced initiative petition, which was submitted to the Attorney General on or before the first Wednesday of August of this year. I regret that we are unable to certify that this measure is in “proper form for submission to the people,” as required by Article 48, the Initiative, Part 2, Section 3. Our decision, as with all decisions on certification of initiative petitions, is based solely on art. 48’s legal standards; it does not reflect any policy views the Attorney General may have on the merits of the proposed law.

Below, we summarize the proposed law and then explain why it is not in “proper form for submission to the people” as required for certification.

The Proposed Law

The first section¹ of the proposed law states that “human life is sacred,” and that “the life and dignity of every person must be respected and protected at every stage of life and in every condition.”

The second section of the proposed law seems to provide a definition of “person” as “a man or a woman, a human, a living soul, an individual male or female, and their children male or female.” The effect of this provision, and how it differs from the way that the term is currently defined or understood in state law, is not specified.

The third section of the proposed law provides definitions for “man” and “woman.”

The fourth section states “a person, male or female is perfect, healthy and wholesome in

¹ The petition does not contain section numbers; we use the “section” in this letter to refer to a grouping of the proposed law’s text.



our natural state as born from a woman.” This section, when taken on its face, seeks to establish that all people are “perfect” in their “natural state.” The effect of this section, if it were enacted, is not specified.

The fifth section states “a person has full autonomy over his/her own body, mind and spirit. Parents have full authority to promote the well being [*sic*] of their children.” Again, the effect of this section, if it were enacted, is not specified.

The sixth section of the proposed law seeks to require that “informed consent must be provided for all intrusions into a person’s body” and, additionally, seeks to incorporate the Nuremberg Code of 1947, and the ten ethical principles that it sets forth, into state law. These ethical principles can be summarized as follows: 1) voluntary and informed consent is essential for all medical experiments; 2) medical experiments should be conducted for the good of society and humans should only be used if no other means of study are feasible; 3) medical experiments on humans should be based on the results of animal experimentation and studies of the disease so that anticipated results will justify the experiment; 4) medical experiments should be conducted in a manner that avoids all unnecessary physical and mental injury or suffering; 5) no medical experiment should be conducted where there is reason to believe that death may result, except in experiments where the experimental physicians also serve as subjects; 6) the risk of medical experiments should never exceed the humanitarian significance of the problem the experiment is seeking to solve; 7) proper preparations should be made and adequate facilities provided to protect the experimental subjects against possibilities of injury, disability, or death; 8) medical experiments should only be conducted by qualified persons that will provide the highest degree of skill and care throughout all stages of the experiment; 9) the subject of any medical experiment shall be at liberty to end the experiment if they have reached the physical or mental state where continuation of the medical experiment seems impossible, and; 10) during the course of the medical experiment, the scientist in charge must be prepared to terminate the experiment if he has probable cause to believe that continuation of the experiment is likely to result in injury, disability, or death of the human subject.

The seventh and final section of the proposed law states “criminal offenses are subject to the fifth and fourteenth amendments to the Constitution of the United States of America.”

The Proposed Law is Not in Proper Form for Submission to the People

The proposed law is not in “proper form for submission to the people” as required by Article 48 because its provisions are so ambiguous that it is impossible to determine, or inform potential voters of, the proposed law’s meaning and effect. An initiative petition that does not propose a law (or a constitutional amendment) is not in proper form for certification by the Attorney General. See Amend. Art. 48, The Init., Part II, § 1 (“An initiative petition shall set forth the full text of the ... law ... which is proposed by the petition.”). The “proper form” requirement was originally designed primarily to avoid “errors of draftsmanship.” Nigro v. Attorney General, 402 Mass. 438, 446 (1988). As stated by one of the framers of Article 48, “the object is this: That we shall have a responsible officer ... to certify that there are no

mistakes.” Id. (quoting 2 Debates in the Massachusetts Constitutional Convention, 1917-18, the Initiative and Referendum at 724 (1918) (comments of Mr. Churchill)). The Attorney General’s review, however, extends beyond a “narrow and technical” reading of the “proper form” requirement. See Paisner v. Attorney General, 390 Mass. 593, 598 (1983).

Particularly after Article 48 was amended in 1944 to emphasize the “[e]conomy of language and fairness” in the Attorney General’s summary of a proposed law, the understanding of what constitutes “proper form” has expanded. Mass. Teachers Ass’n v. Sec’y of Commonwealth, 384 Mass. 209, 227 (1981). The “proper form” requirement, read together with the amended Article 48 requirement that the Attorney General prepare a “fair, concise summary” of the measure, aims “to inform both potential signers and voters of the contents of the proposed law.” Nigro, 402 Mass. at 447. A proposed law must also include “a measure with a binding effect, or as importing a general rule of conduct with appropriate means for its enforcement declare by some authority possessing sovereign power over the subject; it implies command and not entreaty.” Mazzone v. Attorney General, 432 Mass. 515, 530 (2002) (quoting Opinion of the Justices, 262 Mass. 603, 605 (1928)).

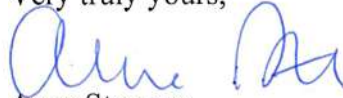
Here, the ambiguity of the proposed law make it difficult to determine the meaning and effect of its provisions. Specifically, the proposed law contains a number of vague and undefined terms, as well as multiple provisions for which it is impossible to ascertain the practical or legal consequence of enactment. For example, the terms “sacred,” “respected,” and “at every stage of life” are so vague as to render it difficult to interpret the proposed law or understand how it would be enforced. And the fourth section contains a declaration seeking to establish that all people are “perfect” in their “natural state,” but the proposed law does not specify what, if any, legal effect this declaration has.

Considering the omissions and unresolvable ambiguities described above, we cannot determine with certainty what the proposed law means or would do. The petition does not propose a law that voters could enact without further legislative implementation. It is not clear from the petition text what acts are prohibited or what the punishment for violation of the law would be. Thus, the measure does not meet the definition of a “law” set forth in Mazzone. As such, this petition is a “nonbinding expression of opinion” and not a “law” that may be proposed via art. 48. See Paisner, 390 Mass. at 601. Moreover, we are unable to certify that the proposed law is in “proper form,” as we cannot inform voters, through a “fair, concise summary,” what they are being asked to support. The purpose of Article 48’s requirement that the Attorney General certify a petition to be in “proper form” is, as stated in the Debates in the Constitutional Convention of 1917-18, “[t]hat we shall have a responsible officer . . . to certify that there are no mistakes[;] [t]hat such mistakes are possible, . . . even under the most careful, painstaking handling of the drafting of bills, every member of the Legislature knows . . . [including] mistakes which would change even the complete nature of a bill.” Nigro, 402 Mass. at 446 (quoting Debates). Here, the multiple ambiguities and omissions in the proposed law appear to reflect drafting mistakes that certainly would “change . . . the complete nature” of important provisions, depending on which particular interpretations of the operative language were adopted.

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For the foregoing reasons, Petition No. 23-09 cannot be certified under art. 48.

Very truly yours,



Anne Sterman
Deputy Chief, Government Bureau
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cc: William Francis Galvin, Secretary of the Commonwealth