



August 22, 2017

Hon. Xavier Becerra  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Ashley Johansson  
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (A.G. File 17-0008) that would amend the California State Constitution to ban abortion and declare whoever performs or procures an abortion guilty of first-degree murder.

As the initiative would prohibit abortion *without exception* and make the performance or procurement of an abortion a *crime* under state law, the initiative is in direct conflict with the United States (U.S.) Constitution as interpreted by the U.S. Supreme Court in well-established and long-settled judicial precedent. Specifically, in *Roe v. Wade* (1973), the U.S. Supreme Court held that: (1) women generally have a right under the U.S. Constitution to terminate a pregnancy by abortion prior to at least the end of the first trimester (in a subsequent case, the court clarified that this right was permitted to be exercised up to the point of fetal viability) and (2) state criminal abortion laws violate the “due process clause” of the 14<sup>th</sup> Amendment of the U.S. Constitution. In 1992, the U.S. Supreme Court upheld the central tenet of its *Roe* decision (in *Planned Parenthood v. Casey*). Accordingly, it is almost certain that the initiative would be invalidated by the courts, meaning that it could not legally take effect.

**Fiscal Impact.** Assuming that provisions of the U.S. Constitution would prevent the initiative from taking effect, voter approval of this measure would have no impact on state and local finances.

Sincerely,

---

Mac Taylor  
Legislative Analyst

---

Michael Cohen  
Director of Finance