



## **PROPOSAL 2 - FREQUENTLY ASKED QUESTIONS**

### **What is the Michigan Civil Rights Initiative (MCRI)?**

The Michigan Civil Rights Initiative is proposal 2 and will be voted on this November. MCRI will amend the Michigan Constitution by adding a new Section 26 to Article I that would prohibit state and local government from discriminating against or granting preferential treatment to any individual or group based on race, sex, color, ethnicity or national origin in the areas of public employment, public contracting and public education.

### **What would this proposal affect?**

Public employment, public education, and public contracting by the state government and all of its subdivision -- including the state itself, any city, county, public college, university, or community college, school district, or other political subdivision or governmental instrumentality of or within the State of Michigan

### **Isn't some consideration of race needed to balance disparities that exist?**

Poverty transcends race. MCRI would not prevent, and indeed, would probably result in significantly greater use of socio-economic solutions that would benefit every "disadvantaged" individual regardless of race. MCRI does agree that K-12 education should be improved and programs that otherwise increase the availability of jobs, opportunity, and economic growth for all Michigan residents.

### **Wouldn't passage of this proposal mean the end of Affirmative Action?**

No. Affirmative action (in terms of outreach programs to under-represented groups) would be permitted for such classifications as, for instance, "inner city schools" or "rural schools" or other measures of socio-economic disadvantage. What would be prohibited under the MCRI proposal is applying different standards to individuals or groups based on the intrinsic characteristics of race, sex, color, ethnicity or national origin.

### **Will this proposal have "unintended consequences?"**

This is a favorite scare tactic used by special-interest groups opposed of any popular reform -- precisely because it is inherently vague. It is impossible to refute a charge that something might have "unintended consequences" since what is unintended is, by definition, also unknowable. We can however, look to the past experiences in California and Washington. Both states have adopted similar initiatives, eliminating preferences based on race, gender, ethnicity, skin color and national origin, and have been successful for almost ten years. Additionally, the public University systems in each state are now experiencing rising admissions rates of "under-represented minorities" even without racial preferences as part of the admissions policies.

**Some Politicians and special interest groups are opposing the MCRI because of a supposed, undefined impact on women. What's the reasoning?**

Opponents of the proposal know that MCRI enjoys broad support and they need an argument that may divide voters. It's important to note that the lawsuits against the University of Michigan, as well as similar lawsuits against the University of Texas, University of Washington, and a New Jersey school district, were initiated by women. Race always trumps gender. In its legal defense, the University of Michigan admitted then that no preferences were given to women. Now, the University is arguing, in a crass attempt to cater to another group that it does. In fact, the University of Michigan extends preferences to minority applicants (some male) at the expense of qualified women.

**Won't the ban on discrimination based on sex result in such things as unisex public restrooms, or interfere with legitimate, gender-specific, government functions such as undercover police operations, casting for plays in public schools, and so forth?**

No. The amendment provides a specific exception for "bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting." The Civil Rights Act of 1964 – which has the exact same exception clause -- has over four-decade history of legal interpretation and there is settled case law addressing such exceptional circumstances. Legitimate gender differentiations have been clearly interpreted to mean that such distinctions as separate-sex restrooms and other accommodations to the physical differences between males and females are and will remain perfectly legal. Further, a similar measure, "Proposition 209," was passed in California almost a decade ago. To this date, girls are still playing soccer in California, and volleyball, baseball, basketball, etc.

**Would this amendment apply to private companies or organizations?**

No – this will only apply to public education, employment and contracting.

**If this amendment is adopted, will it overturn the US Supreme Court ruling that permitted the use of race in the admissions process at the University of Michigan?**

Technically, it will not change the Supreme Court ruling. The court only ruled that consideration of race in the university admission process was not barred by the equal protection clause of the US Constitution (14th Amendment), not that it was required. The people of the state of Michigan are entitled to set a higher standard for their own universities, if they choose. The result is that, as a practical matter, adoption of this amendment will have the effect of setting a higher standard than the Supreme Court ruling here in Michigan.

**When will the Michigan Civil Rights Initiative be on the ballot?**

The Initiative will be on the November 7, 2006 ballot.