

IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* William Dudley
6389 Pinehurst Ln.
Mason, OH 45040

State of Ohio *ex rel.* Terence Brennan
6219 Orchard Ln.
Cincinnati, OH 45213

State of Ohio *ex rel.* Michael Harrison
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Mogadore, OH 44260

State of Ohio *ex rel.* Pamela Simmons
2581 E. 5th Ave.
Columbus, OH 43219

and

State of Ohio *ex rel.* Deidra Reese
5882 Warner Meadows Dr.
Westerville, OH 43081

Relators,

v.

**Dave Yost, in his official capacity as Ohio
Attorney General**
30 E. Broad St., 16th Floor
Columbus, OH 43215

Respondent.

Case No. 2024-0161

Original Action in Mandamus and Under
Section 3519.01(C) of the Ohio Revised
Code

RELATORS' MERIT BRIEF

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INTRODUCTION

The process for qualifying an initiative petition for the ballot in Ohio is lengthy and carefully crafted. At different stages of this process, different government officials play defined and prescribed roles in reviewing, certifying, naming, verifying, and summarizing the initiative petition before it appears on the ballot. The Attorney General's role in this process is preliminary and narrow in scope: The Attorney General is limited to reviewing and certifying the summary of a proposed constitutional amendment during the initial, pre-certification phase. R.C. 3519.01(A). In the past, Attorney General Dave Yost has recognized this narrow statutory authority, acknowledging that his role is "limited to determining whether the wording of the summary properly advises potential petition signers of a measure's material components." (RELATORS_016). The "narrow law" requires the Attorney General to "make a decision about the truthfulness of a summary" and "constrain[s] [him] by duty to rule upon a narrow question"—whether the summary is fair and truthful. If it is, the Attorney General must "certify it as such within ten days after receipt of the petition." (RELATORS_016). Relators brought this case because the Attorney General overstepped the bounds of his narrow statutory authority.

Relators seek to propose a voting rights-related constitutional amendment by initiative petition entitled the "Ohio Voters Bill of Rights." The deadline for the Attorney General's review has passed, and Attorney General Yost has raised no issue with the proposed summary. Rather, he refused to certify the petition for Relators' proposed amendment based solely on objections to the petition *title*. This is unprecedented and unlawful. The clear text of the specific statute, the surrounding statutory scheme, and the policy objectives of the petition process all require the conclusion that the petition title is not part of the summary, and the Attorney General has no authority to reject the petition based on the title. Because the Attorney General reviewed the summary and failed to identify any deficiencies with the summary within the allotted ten-day

period, he must certify the petition. But even if this Court concludes that the Attorney General has authority to review the petition's title, that title is fair and truthful: The proposed amendment establishes and protects the fundamental right to vote consistent with the common understanding of a "Bill of Rights," and the Attorney General abused his discretion in refusing to certify.

Finally, the Attorney General should not be provided with yet another opportunity to review the petition he has already delayed for months. The legislature imposed the ten-day review period precisely to ensure that the Attorney General could not unduly delay the people's exercise of their initiative power, and as courts have recognized, the strict ten-day period is meant to limit the "attorney general's ability to impede the process." *Schaller v. Rogers*, 2008-Ohio-4464, ¶ 51 (10th Dist.). Relators are entitled to relief under Revised Code 3519.01(C) and to a writ of mandamus directing the Attorney General to certify the summary. Alternatively, if the Court finds it improper to issue a writ of mandamus requiring the Attorney General to certify, Relators are entitled to a writ directing the Attorney General to limit his review to the summary and to list *all* perceived deficiencies of the summary within a single ten-day period.

STATEMENT OF THE CASE

The process of qualifying a proposed initiative for the ballot is a lengthy, multi-step process. Proponents must first circulate an initial written petition and obtain the signatures of 1,000 qualified electors. Upon securing the requisite signatures, proponents then submit the proposed amendment, with the summary, to the Attorney General. R.C. 3519.01(A). The Attorney General then determines if the summary is a fair and truthful statement of the proposed amendment. If it is, the Attorney General certifies the measure and forwards it to the Ohio Ballot Board. *Id.* The Ballot Board then determines if the petition contains only one proposed amendment or must be

divided into multiple amendments. R.C. 3505.062(A).¹ Once the Ballot Board so determines, it certifies its approval to the Attorney General, who then files a copy of the proposed constitutional amendment, the summary, and the Attorney General’s certification with the Secretary of State. *Id.*

Petitioners then must timely gather and submit signatures equivalent to ten percent of the votes cast for governor in the last gubernatorial election—this cycle, more than 413,000 signatures—from at least 44 counties to qualify the measure for the ballot. Ohio Const., art. II, §§ 1a, 1g. After this, the title and summary used during the petition circulation process fall by the wayside. The Secretary of State prescribes the ballot title that voters will see on the ballot itself, and the Ballot Board prescribes the accompanying ballot language. R.C. 3519.21; Ohio Const., art. XVI, § 1; Ohio Const., art. II, § 1g. The summary that the Attorney General reviews at the pre-certification stage is not presented to voters when they are asked to approve or reject the proposed amendment at the ballot box, nor does any initial title petitioners included on the petition appear on the ballot.

Given the limited purpose of the pre-certification petition summary to the overall process, the Attorney General’s role is commensurately specific and limited. “Within ten days after the receipt of the written petition and the summary of it, the attorney general *shall conduct an examination of the summary.*” (Emphasis added.) R.C. 3519.01(A). If “the summary is a fair and truthful statement of the proposed law or constitutional amendment, the attorney general *shall so certify*” and forward the petition to the Ballot Board for approval. (Emphasis added.) *Id.*

Relators seek to amend the Ohio Constitution to guarantee several rights related to voting. Relators first submitted their written petition on December 19, 2023. Their submission included

¹ If the Ballot Board determines that the petition contains more than one proposed amendment, then the petitioners must resubmit summaries of each proposed amendment to the Attorney General for certification. R.C. 3505.062(A); 3519.01(A).

the text of their proposed constitutional amendment, a summary, and a petition bearing the signatures of more than a thousand qualified electors. (RELATORS_019–030). The proposed amendment would establish that the right to vote is a fundamental right and prohibit the enactment of laws, regulations, procedures, the use of harassment or intimidating conduct, or any other means to deny, abridge, interfere with, or burden the fundamental right to vote. (RELATORS_024). It further enumerated specific voting rights and assigned the State several roles and responsibilities to further the fundamental right to vote. (RELATORS_024–030). Relators’ submission also included a title before the summary: “Secure and Fair Elections.” (RELATORS_020).

The Attorney General responded in his December 28 letter that he was “unable to certify the summary as a fair and truthful representation of the proposed amendment[,]” based on specific issues that the Attorney General claimed “would mislead a potential signer as to the scope and effect of the proposed amendment.” (RELATORS_031). Specifically, the Attorney General identified the following concerns that he had with the submission: (1) the summary was purportedly misleading because the amendment delineated different processes for requesting an absentee ballot, voting by absentee ballot, and voting in person by signed declaration, and used the summary phrase “specified process” rather than explaining in detail the different requirements based on the voter’s method of casting their ballot; (2) the summary’s description of the types of “person” to which the amendment applies was incomplete and could be misleading; and (3) the summary omitted the words “immediately” and “afforded due process” from the description of issues with absentee ballot applications or absentee ballot envelopes. (RELATORS_031–032). In addition to his objections to the summary, the Attorney General also took issue with the title “Secure and Fair Elections.” (RELATORS_032). This appears to be the first time, based on records from the last eighteen years available on the Attorney General’s website, that an Attorney General

has examined the title of a petition and cited a deficiency with the title as a reason for declining to certify the summary of a proposed amendment.

Relators addressed and resolved all the claimed deficiencies identified by the Attorney General in his December 28, 2023, letter and submitted a new written petition on January 16, 2024. (RELATORS_034). Relators' second submission again included the text of the proposed constitutional amendment, a revised summary, and a petition bearing the signatures of more than a thousand qualified electors. (RELATORS_036–051). In response to the Attorney General's letter, the revised summary set forth the "specified processes" for the verification of voter identity in detail rather than summarizing them, included the complete definition of "person," and added the words "immediately" and "afforded due process" to the applicable section on issues with absentee ballot applications or absentee ballot envelopes. *Id.* In addition, although Relators pointed out in their resubmission letter that the Attorney General does not have authority to review the petition title, Relators nonetheless revised the title of their own volition and to avoid further delay of certification. Relators now titled the proposed amendment the "Ohio Voters Bill of Rights"—title language similar to titles that the Attorney General had repeatedly approved in the past. (RELATORS_034). Other than minor revisions to the text, which were also reflected in the summary, the January 16, 2024, submission was substantively identical to the December 19, 2023, submission that the Attorney General reviewed on December 28, 2023.

The Attorney General took another nine days to review and refused to certify the summary for a second time on January 25, 2024. (RELATORS_052). This time, however, the Attorney General did not identify any deficiencies with the summary of the proposed amendment. Instead, his only objection was to the title. (RELATORS_052–054). The Attorney General stated that he had "reviewed the renewed submission," and that he was declining to certify because the title

“Ohio Voters Bill of Rights,” in his view, does not reflect the common understanding of a “Bill of Rights” and therefore does not fairly or truthfully summarize or describe the proposed amendment. (RELATORS_052). In the Attorney General’s opinion, a bill of rights cannot include descriptions of specific election processes or confer any discretion on election officials. (RELATORS_052–054). While the Attorney General acknowledged that his office had previously certified petitions with similar titles like the “Nursing Facility Patients’ Bill of Rights” in 2021 and the “Ohio Voters Bill of Rights” in 2014, he asserted that those actions were not dispositive because his office had not examined the titles of those petitions. (RELATORS_053). However, the Attorney General cited no authority that the title is an element of a petition’s summary, nor did he cite *a single instance* in which any Attorney General had previously reviewed or refused to certify a summary due to purported deficiencies with the proposed title.

On February 1, 2024, Relators filed their Complaint, requesting a writ of mandamus and/or other relief under Revised Code Section 3519.01(C) directing the Attorney General to certify the summary. Citing the need to resolve the matter in time for the proposed amendment to appear on the general election ballot in November, which must be filed with the Secretary of State’s office by July 3, 2024, Relators sought an expedited case schedule, which the court denied on February 8, 2024. Mot. for Expedited Scheduling Order (Feb. 1, 2024); Order (Feb. 8, 2024). On February 26, 2024, the Attorney General filed a Motion to Dismiss, arguing that he acted within his statutory authority and did not abuse his discretion in declining to certify the summary based on title, and Relators filed a response on March 7. Mot. to Dismiss (Feb. 26, 2024); Relators’ Response to Respondent’s Mot. to Dismiss (Mar. 7, 2024). On May 22, the Court denied the Attorney General’s Motion to Dismiss and set a schedule for merit briefing. Order (May 22, 2024). Relators and Respondent Yost both filed their evidentiary submissions on June 11. Evidence of Relators (June

11, 2024); Evidence Submission of Respondent Ohio Atty. Gen. (June 11, 2024).

STANDARD OF REVIEW

To obtain a writ of mandamus against the Attorney General, Relators must establish “(1) a clear legal right to the requested relief, (2) a clear legal duty on the [respondent’s] part to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law.” *State ex rel. DeBlase v. Ohio Ballot Bd.*, 2023-Ohio-1823, ¶ 15, citing *State ex rel. Husted v. Brunner*, 2009-Ohio-4805, ¶ 11.

In the alternative, because this Court has exclusive, original jurisdiction in all challenges to the Attorney General’s failure to certify a proposed petition, R.C. 3519.01(C), Relators are entitled to relief if the Court finds that the Attorney General “engaged in fraud, corruption, or abuse of discretion, or acted in clear disregard of applicable legal provisions.” *State ex rel. Ohioans for Secure & Fair Elections v. LaRose*, 2020-Ohio-1459, ¶ 14.

ARGUMENT

I. Proposition of Law No. 1: The Attorney General exceeded his authority by rejecting Relators’ written petition solely because of an allegedly deficient title.

The Attorney General lacks the authority to refuse to certify a petition summary based on the petition title, as made clear by the relevant statute and the policy objectives of the petition process.

A. The title is not part of the summary.

This case can be disposed of as a simple matter of statutory interpretation. Under Ohio law, the petition “title” is not part of the petition “summary.” The Attorney General’s authority is limited to reviewing the ballot summary, and thus he has no authority to review the title or refuse to certify the summary because of perceived issues with a proposed title.

First, the plain text of Section 3519.01(A) of the Ohio Revised Code sets forth that, within

ten days after the proponents of a constitutional amendment by initiative petition submit the proposed amendment and its summary, “the attorney general shall conduct an examination of the summary,” and if “the summary is a fair and truthful statement of the . . . constitutional amendment, the attorney general shall so certify and then forward the submitted petition to the Ohio ballot board for its approval.” R.C. 3519.01(A). The plain text of the statute is clear and unambiguous: The Attorney General’s authority is (a) limited to the petition’s summary and (b) his review must be completed within ten days of receipt of the proposed petition. *Id.*

When statutory language is unambiguous, courts “apply it as written without resorting to rules of statutory interpretation or considerations of public policy. . . . [O]ur review ‘starts and stops’ with the unambiguous statutory language.” *Gabbard v. Madison Local School Dist. Bd. of Edn.*, 2021-Ohio-2067, ¶ 13, first citing *Zumwalde v. Madeira & Indian Hill Joint Fire Dist.*, 2011-Ohio-1603, ¶ 23–24, 26, then citing *Johnson v. Montgomery*, 2017-Ohio-7445, ¶ 15. Courts may “neither add to nor delete from the statutory language” and must “read a statute as a whole and [] not dissociate words and phrases from that context.” *Gabbard* at ¶ 13, 22. Here, the Court need look no further than the plain text of Section 3519.01. The Attorney General lacks the authority and discretion to refuse to certify a petition based on the title. *See State ex rel. Barren v. Brown*, 51 Ohio St.2d 169, 170 (1977) (“Under [R.C. 3519.01(A)], the authority of the Attorney General is limited to whether the summary is fair and truthful. If he determines that it is, he is directed to so certify.”).

Second, the structure of the statutory scheme laying out the process to qualify initiative petitions bolsters the conclusion that a petition title is distinct from, and not part of, a petition summary. *Stingray Pressure Pumping, L.L.C. v. Harris*, 2023-Ohio-2598, ¶ 37 (court reviews statutory text “in the context of the rest of the statutory scheme”). A “title” is not a required element

of a petition until *after* the Attorney General reviews the summary, submits the proposed amendment to the Ohio Ballot Board to determine whether it proposes one amendment, and the committee in charge of the initiative petition prepares a petition that complies with Section 3519.05 for circulation. Section 3519.05 of the Ohio Revised Code sets forth the form requirements for an initiative petition at that stage and specifies that it must include both the summary certified by the Attorney General *and* a separate title.

“Amendment” printed in fourteen-point boldface type shall precede the title, which shall be briefly expressed and printed in eight-point type. The summary shall then be set forth printed in ten-point type, and then shall follow the certification of the attorney general, under proper date, which shall also be printed in ten-point type. The petition shall then set forth the names and addresses of the committee of not less than three nor more than five to represent the petitioners in all matters relating to the petition or its circulation.

R.C. 3519.05. Section 3519.05 expressly requires the summary to be printed, immediately followed by the Attorney General’s certification per Section 3519.01. *See* R.C. 3519.05 (“The summary shall . . . follow the certification of the attorney general, under proper date.”). And it *separately* requires a title, which must be printed on the petition *before* the summary and the Attorney General’s certification. *Id.* Section 3519.05 puts the very same summary that the Attorney General is responsible for reviewing under Section 3519.01(A) in the context of *other* components of the petition—including the title. Just like the names and addresses of the committee that represents the petitioners are identified as a separate element of the petition under Section 3519.05, not explicitly required during the pre-certification phase under Section 3519.01(A), but included as a separate element from the summary, the title is similarly a distinct element that is not part of the summary.²

² At the certification stage, there are elements of the petition that cannot be characterized as either the full text or the summary, including the 1000-signature requirement, the inclusion of the names

Section 3519.05 could not be clearer that a title and a summary are entirely different components subject to entirely different requirements. For example, the statute mandates that the title appear in “eight-point type,” followed by the summary in “ten-point type.” If the Attorney General’s interpretation were correct that the title was part of the summary, it would be impossible for proponents to comply with the statute: The statute would demand that the title simultaneously be written in both eight-point and ten-point font. And a reasonable statutory interpretation cannot render null or superfluous other parts of the statute. *Electronic Classroom of Tomorrow v. Ohio Dept. of Edn.*, 2018-Ohio-3126, ¶ 23 (rejecting an interpretation that would “render portions of the statute superfluous”). Both the plain text of the statute and the statutory scheme make clear that the title and summary of a petition are distinct. The Attorney General’s effort to arrogate to himself the power to review the title finds no succor in the statutory text.

Third, even if it were necessary to go beyond the statutory text to construe the meaning of title and summary, additional tools of statutory construction support the conclusion that a “summary” and “title” refer to entirely different things and serve different purposes. A title is a “distinguishing name” or a “heading which names an act or statute.” (RELATORS_097). Like the title of a book, the title of a petition is a short-hand name to identify a particular petition. And like the title of federal legislation (e.g., Inflation Reduction Act, SAFE Banking Act), the title of a petition allows proponents and voters to quickly refer to it—a very different purpose from that of a summary, which the Attorney General defined as “a short, concise summing up” that “advise[s]” voters of the petition’s “character and purport.” (RELATORS_052, citing *State ex rel. Hubbell v.*

and addresses of the committee to represent the petitioners, and the title. Even though the statute does not explicitly provide for inclusion of information about the committee or petition title, proponents are not precluded from including this information, and none of these elements automatically become part of the summary or part of the proposed constitutional amendment itself.

Bettman, 124 Ohio St. 24, 27–28 (1931)). And in stark contrast to a “name” or “heading,” a summary is defined as “an abstract, abridgment, or compendium.” (RELATORS_107).

Finally, the conclusion that the Attorney General’s review is limited to the summary is bolstered by the fact that no Attorney General has ever before rejected a petition based solely on concerns with the title. (Evidence Submission, Affidavit of Donald J. McTigue ¶ 28.) Instead, and consistent with the plain text of Section 3519.01, the Attorney General’s Office has limited its review to the summary only. Moreover, a review of historical petitions and certification letters reveals (and the Attorney General’s own January 25, 2024, letter acknowledged) that the Attorney General’s Office has repeatedly approved written petitions with identical or nearly identical titles as the one here, including the Nursing Facility Patients’ Bill of Rights in 2021, the Ohio Crime Victims Bill of Rights in 2017, and the Ohio Voters Bill of Rights in 2014. (RELATORS_053, RELATORS_063, RELATORS_080, RELATORS_087). In instances where the Attorney General’s Office rejected iterations of petitions with nearly identical titles like the Ohio Voters Bill of Rights and the Nursing Facility Patients’ Bill of Rights, he did not cite the title as the reason for rejection. (RELATORS_073–074, RELATORS_095–096.) The fact that the Attorney General has never before asserted the authority to review the title of a written petition is further evidence that he, in fact, lacks the authority to do so and that his attempt to do so now is a novel overreach of his statutory authority.

B. The Attorney General’s limited authority over the summary is consistent with the policy objectives of the petition process.

In his motion to dismiss, which was denied, the Attorney General asserted that, in essence, he *should* have the power to review the ballot title as a matter of policy. Mot. to Dismiss at 12 (Feb. 26, 2024) (arguing that the Attorney General’s determination is “Ohio’s only backstop to highly misleading titles”). But this Court applies the law as it is written and, here, the Attorney

General's role is expressly defined by carefully constructed provisions that govern Ohio's process for qualifying petitions for the ballot. The Attorney General's role comes at the very start of this process, before a title is required and even before there is an initiative petition. His review of the summary under Section 3519.01 is a "statutory requirement *prior* to commencement of the initiative process." (Emphasis added.) *State ex rel. Durell v. Celebrezze*, 63 Ohio App.2d 125, 130 (10th Dist. 1979). After the Attorney General's initial review of the written petition, there are several steps that the proponents of a constitutional amendment must take before their proposal appears on the ballot. *See* Ohio Const., art. II, § 1g. And importantly, state officials—not the proponents themselves—determine the title and language that voters will see on the ballot when they vote to approve or reject an amendment.

The Attorney General's concern that "the language of advocacy and advertising" might somehow infiltrate the language on the "formal ballot," which "should be as neutral as possible" is unfounded. (RELATORS_054). The Attorney General's review of petition language has no bearing on what appears on the ballot itself. The Secretary of State is the state official that prescribes the title that Ohioans see before deciding whether to enact a measure into law and has a legal duty to prescribe a ballot title that is not only "true," but "impartial"—that is, "not [] likely to create prejudice for or against the measure." R.C. 3519.21 (the Secretary is tasked with determining the title, which "shall give a true and impartial statement of the measures in such language that the ballot title shall not be likely to create prejudice for or against the measure"). Furthermore, Article XVI, Section 1 of the Ohio Constitution gives the Ballot Board the authority to prescribe the "ballot language" (which "properly identif[ies] the substance of the proposal") and "explanation" ("which may include its purpose and effects") of the proposed amendment. The Attorney General's role at this stage of the process is so limited because *other* state officials are

tasked with the ballot title and ballot language. Regardless of the Attorney General's proffered concerns, they cannot be used to justify an overreach and *ultra vires* action by the Attorney General.

While the Attorney General may think that it would be *better* if he could decline to certify a proposed amendment based on his view of the propriety of the written petition title, this Court applies the statutes adopted by the legislature; it does not pass judgment on their wisdom. *State ex rel. Ohio Congress of Parents & Teachers v. State Bd. of Edn.*, 2006-Ohio-5512, ¶ 20. It is the legislature's prerogative to dictate who may weigh in on the title, and when; and Ohio law has delegated this duty to the Secretary and to the Ballot Board at a later stage of the petition process. There is no basis for reading into the law an additional role for the Attorney General at the pre-certification stage, nor is there any basis for allowing the Attorney General to intrude upon the prerogatives already assigned to the Secretary and Ballot Board. *See Hulsmeyer v. Hospice of S.W. Ohio, Inc.*, 2014-Ohio-5511, ¶ 26 (“[I]f the General Assembly could have used a particular word in a statute but did not, we will not add that word by judicial fiat.”).

Because the Secretary of State is tasked with prescribing the ballot title and ensuring its accuracy and the Ballot Board is tasked with prescribing the language that ultimately appears on the ballot—and this Court serves as an additional check on their work—ballot measure proponents do not have *carte blanche* to put just *any* title on the ballot, as the Attorney General purportedly fears. R.C. 3519.21; Ohio Const., art. XVI, § 1; Ohio Const., art. II, § 1g. And at the petition circulation stage, voters who consider signing a petition are able to fully assess the proposed amendment by reviewing the Attorney General-certified summary, along with the full text of the measure; information that is not present on the ballot itself. R.C. 3519.05; Ohio Const., art. XVI, § 1 (“The ballot need not contain the full text nor a condensed text of the proposal.”); Ohio Const.,

art. II, § 1g. The Attorney General's limited review of the written petition is a feature of the statutory scheme, not a bug.

II. Proposition of Law 2: In the alternative, even if the Court determines that the Attorney General may review the title, the Attorney General abused his discretion in taking issue with the title and refusing to certify.

Even if this Court concludes that the Attorney General has authority to review the proposed amendment title as “part” of the summary, the Attorney General abused his discretion by refusing to certify. The title “Ohio Voters Bill of Rights” is a “fair and truthful” description of the proposed amendment, which establishes that the “right to vote is a fundamental right” enjoyed by every citizen and sets forth a variety of voting rights. (RELATORS_043-049). This title has been used in previous petitions approved by the Attorney General as recently as in 2014. (RELATORS_087). Under any reasonable reading, it is fair and truthful.

The common understanding of “rights” are protections secured by law. Here, the proposed amendment sets out various rights for Ohio voters that would be guaranteed in the Ohio constitution, if the amendment were approved. To protect those rights, it prohibits the enactment of laws, regulations, procedures, the use of harassment or intimidating conduct, or any other means to deny, abridge, interfere with, or burden the fundamental right to vote. (RELATORS_043). And to buttress that fundamental right to vote, the proposed amendment enumerates several specific guarantees of voting rights for eligible Ohio voters, including the rights to in-person voting, military and overseas absentee voting, early in-person voting, automatic voter registration, voter registration by non-electronic and electronic means, same-day voter registration, and no-excuse absentee voting. (RELATORS_043-049). A measure that sets out a number of rights is, in common legal parlance, a bill of rights. Ohio courts have noted that the title “Bill of Rights” suggests that the rights included are “intended to be inherent and inalienable,” *Peskin v. Seasons Health Care LP*, 141 Ohio App.3d 436, 441 (1st Dist. 2001) (discussing “Nursing Home Patients’

Bill of Rights”), and “Ohio Voters Bill of Rights” is consistent with that understanding.

The Attorney General disagrees that the title “Bill of Rights” is “fair and truthful,” but his reasoning is baseless. *First*, the Attorney General asserts—without any basis—that a “Bill of Rights” must confer a claim or entitlement and *cannot* confer any discretion to government officials. Applying his own made up test, the Attorney General then reasons that, because a handful of the provisos of the proposed amendment confer discretion, the amendment cannot fairly be described as a bill of rights. (RELATORS_053). This argument is ahistorical and misguided.

The ordinary meaning of a “Bill of Rights,” as the Attorney General himself recognizes, is a set of “rights and liberties considered essential.” (RELATORS_053). And the amendment here enumerates several specific guarantees of rights related to voting that would be expressly protected as essential if the voters approve it. As a baseline, it would require the State to undertake specific acts to make voting accessible, including mandating that: “The State shall make applications necessary to obtain absentee ballots generally available and easily accessible,” “The State shall institute a publicly accessible system by which any registered Ohio elector may electronically track the status of submitted absentee ballot applications and absentee ballots,” and “The State shall make reasonable accommodations for electors with disabilities.” (RELATORS_047–048). While the amendment also includes additional provisions that would allow election officials some discretion in service of the amendment’s enumerated guarantees, those provisions, too, are entirely consistent with and properly belong in a “Bill of Rights.” In arguing to the contrary, the Attorney General ignores that, while these provisions leave some of the details up to various officials, they do so *in favor of* empowering the voters and protecting their voting rights, even if the General Assembly or Secretary would seek to impose constraints on those rights.

For example, the provision ensuring that “[l]ocal election authorities shall have the

discretion to place multiple secure drop boxes throughout their counties for the return of absentee ballots” creates a right to have local election officials determine that multiple drop boxes are warranted, regardless of the Secretary of State’s or General Assembly’s policy preferences. (RELATORS_047). This provision is, in effect, a negative right from state interference, much like how the Tenth Amendment to the U.S. Constitution, part of the federal Bill of Rights, reserves the “powers not delegated to the United States by the Constitution. . . to the States.” Similarly, that the State “may institute reliable additional secure options for qualified electors to verify their identity and cast their ballots as such methods become available through technological advancements” guarantees that those advancements must “maintain ballot secrecy and security” and that existing methods remain acceptable. (RELATORS_049). This provision *constrains* the State’s discretion to institute procedures that violate voters’ rights to ballot secrecy and security and *guarantees* voters’ rights already specified in the amendment. In fact, the Attorney General previously certified a 2014 petition entitled “Ohio Voters Bill of Rights” that included *nearly identical* language. (RELATORS_086–087) (“The State may institute additional reliable methods for casting ballots as they become available through technological advancements.”). There are only two explanations for this prior approval: Either the Attorney General certified the 2014 petition because his office lacks authority to review petition titles or this nearly-identical language is a proper part of a “Bill of Rights.” Either way, there is no justification for the Attorney General’s about face.

Moreover, the two provisions that provide discretion to further the enumerated rights comprise a small fraction of the amendment’s more than fifteen enumerated rights and required State actions to support the fundamental right to vote. (RELATORS_043–049). The Attorney General is incorrect in asserting that the proposed amendment gives local election authorities a

“grant of unfettered discretion.” (RELATORS_053). The vast majority of the amendment enumerates specific rights and creates a private right of action for individuals to enforce those rights. By the Attorney General’s logic, the First Amendment does not belong in the federal Bill of Rights, because it leaves some discretion to government officials to regulate particular kinds of speech, such as incitement.

Second, the Attorney General’s claim that the title of “Bill of Rights” is unfair and untruthful because a Bill of Rights cannot contain procedures that regulate the operations of state government is flatly wrong. (RELATORS_053). The basic purpose of a Bill of Rights is to regulate government operations including government processes. For example, it is well-established that the Fifth Amendment encompasses both substantive *and* procedural due process rights. *United States v. Salerno*, 481 U.S. 739, 746 (1987).

Indeed, several previous constitutional amendment initiative petitions, titled “Bill of Rights” and approved by the Attorney General, contain provisions detailing government procedures that support the fundamental right guaranteed by amendment. For example, a 2021 petition entitled “Nursing Facility Patients’ Bill of Rights” set out a number of procedures that guarantee specific rights to care, many of which require government action and afforded discretion. (RELATORS_058–061). The proposed amendment required the Ohio Department of Health to provide by regulation for minimum standards of care, including licensed nurse to patient ratios, daily average hours of direct care, and requirements for nursing facilities to implement specific protocols. Likewise, as described above, a 2014 petition entitled “Ohio Voters Bill of Rights” also detailed voting procedures that support the fundamental right to vote guaranteed by the proposed amendment. (RELATORS_081–086).

Stripped to its essence, the Attorney General’s objection appears to be to the merits of the

proposed amendment: He apparently does not believe that Ohioans should be guaranteed these constitutional rights as defined or that these rights are “essential”: “polling times on voting days, the location of and equipment at polling locations, the number of calendar days (46) before an election day that officials must send ballots to absentee voters, absentee ballot tracking processes, electronic and non-electronic voter registration, same-day voter registration procedures, and procedures for voters to cast ballots without presenting a photo ID.” (RELATORS_053–54). But nothing in Section 3519.01 of the Revised Code grants the Attorney General the power to tell Ohioans that their “rights” may come only in the form of sweeping generalities rather than precise formulations that guard against government outreach.

Further, there is nothing unusual about the proposed measure. The rights set out in the proposed Ohio Voter Bill of Rights mirror voting rights guaranteed in other states’ constitutions. For example, Article II, Section 4 of the Michigan Constitution protects the fundamental right to vote and includes procedures for voters to register to vote by mail and in person, prove their identity when voting, vote absentee, and access other voting rights. Voters have the right to prove their identity, for instance, “when voting in person or applying for an absent voter ballot in person by (1) presenting their photo identification, including photo identification issued by a federal, state, local, or tribal government or an educational institution, or (2) if they do not have photo identification or do not have it with them, executing an affidavit verifying their identity.” Mich. Const., art. II, § 4. These detailed provisions do not render the right to vote any less “fundamental.”

Taken as a whole, the proposed amendment serves as a bill of rights, and each provision works towards buttressing the fundamental right to vote. *Cf. State ex rel. Ohioans United for Reproductive Rights v. Ohio Ballot Bd.*, 2023-Ohio-3325, ¶ 20 (finding that while ballot language might have been written to be more comprehensive, the deficiencies were “not material when

considering the amendment as a whole.”). The Attorney General’s limited role at the outset of the initiative petition process to ensure the summary fairly and truthfully describes the substance of the proposed amendment does not reach so far as to give the Attorney General the unilateral authority to decide what is worthy of being a “right” enshrined in the Ohio Constitution.

III. Proposition of Law No. 3: Relators are entitled to a writ of mandamus.

Relators are entitled to relief and meet the three requirements for a writ of mandamus. First, the Attorney General had a clear legal duty to review the summary within the ten-day statutory period and certify it absent a finding that the summary was not fair or truthful, or, in the alternative, his conclusion that it was not a fair or truthful representation of the proposed amendment was an abuse of discretion. Second, Relators have a clear legal right to their requested relief as, per Revised Code 3519.01(C), they are persons aggrieved by the Attorney General’s refusal to certify the summary on an improper basis. Third, Relators lack an adequate remedy in the ordinary course of the law. A writ of mandamus should be issued.

A. The Attorney General had a clear legal duty to certify the written petition.

Relators have already demonstrated that the Attorney General has no authority to decline to certify the written petition on the basis of an allegedly deficient title, *see* Section I, and even if he did, his failure to certify based on the title here was an abuse of discretion, entitling Relators to a writ of mandamus under Section 3519.01(C), *see* Section II. Because the Attorney General reviewed the summary within the ten-day period and failed to identify any deficiency in the *summary*, he must certify the petition. Indeed, the Attorney General acknowledged in his letter identifying his refusal to certify that he had “reviewed the renewed submission.” (RELATORS_052). He also reviewed a substantively identical summary just weeks earlier, in which he identified deficiencies that Relators corrected before resubmitting. (RELATORS_031). The Attorney General even publicly announced that the supposedly “misleading title is the only

matter of contention.” (RELATORS_055).

Because the Attorney General has already completed his review during the ten-day window, the proper remedy is a writ of mandamus directing him to certify. The Attorney General may not avoid this result by now claiming that he did not actually carry out his duty to review the summary within the finite statutory period in which he was required to conduct it. Affording the Attorney General the opportunity to belatedly re-review the summary in search of new and as-yet unidentified deficiencies would be at odds with the plain text of the statute and its underlying intent and purpose. Courts’ “paramount concern in construing statutes is legislative intent.” *State Farm Mut. Auto. Ins. Co. v. Grace*, 2009-Ohio-5934, ¶ 25 (collecting cases). The legislative history of Section 3519.01 confirms that the petition process includes clear deadlines precisely to prevent state officials from unduly delaying the process and to ensure that the Attorney General “cannot block a petition effort altogether.” *Schaller*, 2008-Ohio-4464, at ¶ 51 (10th Dist.). In fact, the previous version of Section 3519.01 placed no time limitations on the Attorney General’s review and approval of the summary, which at least one justice of this Court concluded “impeded the right of initiative.” *Id.*, citing *State ex rel. Tulley v. Brown*, 29 Ohio St.2d 235, 239 (1972) (Schneider, J., dissenting). The General Assembly then added the ten-day deadline to limit the “attorney general’s ability to impede the process.” *Id.* Providing the Attorney General with another opportunity to examine the same summary that he has already reviewed and conjure new deficiencies therefore runs counter to the clear legislative intent of the statute; *Compare State ex rel. Summit Cty. Republican Party Executive Comm. v. Brunner*, 2008-Ohio-2824, ¶ 36 (O’Donnell, J. concurring) (a statute related to the Secretary of State’s duty to appoint members to a county board of elections does not allow the Secretary to keep rejecting additional recommendations into perpetuity).

The Attorney General's contrary view would give him unfettered discretion to control the petition process. For instance, he could identify ten supposed flaws in a petition, and then take ten business days to reject the summary on the basis of only one of those supposed flaws, requiring the proponents to correct the flaw, gather 1,000 more signatures, and resubmit. He could continue like this again and again, preventing any petition from progressing to the next step of the process for months on end. This absurd result—particularly where proponents have made every revision the Attorney General required and where he has not identified any additional issues with the summary—directly undermines the purpose of imposing a ten-day review period. The Court should deny the Attorney General's attempt to write into the law an effective right of unlimited review to derail the petition process. *Gulf Oil Corp. v. Kosydar*, 44 Ohio St.2d 208, 217 (1975) (“It is the duty of the courts, if the language of a statute fairly permits or unless restrained by the clear language thereof, to so construe a statute as to avoid unreasonable or absurd consequences.”).

The Attorney General has stalled certification of this proposed amendment for six months now. There is no basis to provide the Attorney General with another opportunity to impede the process further. He has a clear legal duty to certify.

B. Relators have a clear right to their requested relief.

Relators have a clear right to their requested relief: that this Court mandate that the Attorney General certify their written petition. In arguing otherwise, the Attorney General misconstrues Section 3519.01(A), which directs the Attorney General to examine the summary submitted to him within ten days of receipt and provides that, if the “summary is a fair and truthful statement of the . . . constitutional amendment, *the attorney general shall so certify.*” (Emphasis added.) R.C. 3519.01(A). As outlined above, the Attorney General has exhausted his review of the summary here, and the ten-day window has long since run; he should not be granted yet another opportunity to review, and the proper remedy is a writ of mandamus directing him to certify. *See*

supra Section III.A.

In a similar case, this Court found that the Attorney General refused to certify on an improper basis and directed him to certify. *Barren*, 51 Ohio St.2d 169. In *Barren*, the Attorney General’s “only reason for refusing certification [was] that the matters [addressed in the petition] may not be subject to referendum.” *Id.* at 171. The Court found that it was thus “implicit that, in [the Attorney General’s] opinion, the summary meets the requirement of being a fair and truthful statement of the matter to be referred.” *Id.* And because the issue of whether the matters are subject to referendum is “irrelevant” and “not involved in the Attorney General’s honest and impartial evaluation of whether the proposed summary is a ‘fair and truthful statement of the [] measure to be referred,’” the Court directed him to certify. *Id.* at 170, quoting R.C. 3519.01. So, too, here. The Attorney General’s only reason to refuse certification was an objection to the title, and he has thus implicitly determined that the summary was fair and truthful. As in *Barren*, the Court should direct the Attorney General to “certify the summary as a fair and truthful statement of the measures sought to be referred” by granting the writ of mandamus. *Id.* at 171.

In the alternative, if the Court finds it improper to mandate that the Attorney General certify their written petition, Relators are entitled to an order directing the Attorney General to review the summary—and only the summary—and list *all* perceived deficiencies with that summary within the single ten-day review period. If there are no deficiencies with the summary, the Attorney General should be directed to certify and may not defer his examination of any part of the summary until after his single ten-day review period has passed.

C. Relators lack an adequate remedy in the ordinary course of the law.

Relators lack an adequate remedy at law because this Court has original and exclusive jurisdiction over this matter under Article IV, Section 2(B)(1)(b), which gives the Court original jurisdiction in mandamus actions, and under Revised Code Section 3519.01(C), which gives the

Court original and exclusive jurisdiction in “all challenges of [] certification decisions” of the Attorney General. Therefore, mandamus is the only remedy available to challenge the Attorney General’s failure to certify the summary of Relators’ petition. *Tulley*, 29 Ohio St.2d at 238 (issuing writ of mandamus requiring Attorney General to certify initiative petition upon determining that the summary was fair and truthful); *Barren*, 51 Ohio St.2d at 171 (finding that no plain and adequate remedy in the ordinary course of law is available for relators and allowing a writ of mandamus directing the Attorney General to certify the summary as a fair and truthful statement of the measures); *State ex rel. Rankin v. Att’y Gen.*, 2005-Ohio-2717, ¶ 31 (concluding that when the Attorney General refuses to certify the summary, the proper remedy is the issuance of a writ compelling the Attorney General to certify).

CONCLUSION

Because the Attorney General has a clear legal duty to certify the petition, Relators are aggrieved parties and have a right to bring this action under Revised Code 3519.01(C) and a clear legal right to the requested relief, and there is no adequate remedy in the ordinary course of the law, the Court should issue a writ of mandamus directing the Attorney General to certify the summary of the proposed amendment or, in the alternative, to review the summary and list all deficiencies within ten days. Even if the Court determines that the Attorney General had the authority to review the title, it should nevertheless find that the Attorney General’s failure to certify was an abuse of discretion and issue a writ of mandamus directing him to certify.

Dated: June 21, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via email this 21th day of June 2024 to the following:

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APPENDIX

CONSTITUTIONAL PROVISIONS AND STATUTES RELIED UPON, TO BE CONSTRUED, OR OTHERWISE INVOLVED IN THE CASE

Ohio Constitution, Article II, Section 1a: Initiative and referendum to amend constitution

The first aforesaid power reserved by the people is designated the initiative, and the signatures of ten per centum of the electors shall be required upon a petition to propose an amendment to the constitution. When a petition signed by the aforesaid required number of electors, shall have been filed with the secretary of state, and verified as herein provided, proposing an amendment to the constitution, the full text of which shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the electors, the proposed amendment, in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to one hundred twenty-five days after the filing of such petition. The initiative petitions, above described, shall have printed across the top thereof: "Amendment to the Constitution Proposed by Initiative Petition to be Submitted Directly to the Electors."

Ohio Constitution, Article II, Section 1g: Petition requirements and preparation; submission; ballot language; by Ohio ballot board

Any initiative, supplementary, or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution. Each signer of any initiative, supplementary, or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the county and the rural route number, post office address, or township of his residence. A resident of a municipality shall state the street and number, if any, of his residence and the name of the municipality or post office address. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the statement of the circulator, as may be required by law, that he witnessed the affixing of every signature. The secretary of state shall determine the sufficiency of the signatures not later than one hundred five days before the election.

The Ohio supreme court shall have original, exclusive jurisdiction over all challenges made to petitions and signatures upon such petitions under this section. Any challenge to a petition or signature on a petition shall be filed not later than ninety-five days before the day of the election. The court shall hear and rule on any challenges made to petitions and signatures not later than eighty-five days before the election. If no ruling determining the petition or signatures to be insufficient is issued at least eighty-five days before the election, the petition and signatures upon such petitions shall be presumed to be in all respects sufficient.

If the petitions or signatures are determined to be insufficient, ten additional days shall be allowed for the filing of additional signatures to such petition. If additional signatures are filed, the secretary of state shall determine the sufficiency of those additional signatures not later than sixty-five days before the election. Any challenge to the additional signatures shall be filed not later than fifty-five days before the day of the election. The court shall hear and rule on any

challenges made to the additional signatures not later than forty-five days before the election. If no ruling determining the additional signatures to be insufficient is issued at least forty-five days before the election, the petition and signatures shall be presumed to be in all respects sufficient.

No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving an affirmative majority of the votes cast thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. Upon all initiative, supplementary, and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county. A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section, or item, submitted to the electors by referendum petition, may be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section, or item, submitted to the electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The law, or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, shall be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The secretary of state shall cause to be placed upon the ballots, the ballot language for any such law, or proposed law, or proposed amendment to the constitution, to be submitted. The ballot language shall be prescribed by the Ohio ballot board in the same manner, and subject to the same terms and conditions, as apply to issues submitted by the general assembly pursuant to Section 1 of Article XVI of this constitution. The ballot language shall be so prescribed and the secretary of state shall cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law, or proposed amendment to the constitution. The style of all laws submitted by initiative and supplementary petition shall be: "Be it Enacted by the People of the State of Ohio," and of all constitutional amendments: "Be it Resolved by the People of the State of Ohio." The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. The foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provisions or the powers herein reserved.

Ohio Constitution, Article XVI, Section 1: Constitutional amendment proposed by joint resolution of General Assembly; procedure

Either branch of the General Assembly may propose amendments to this constitution; and, if the

same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be filed with the secretary of state at least ninety days before the date of the election at which they are to be submitted to the electors, for their approval or rejection. They shall be submitted on a separate ballot without party designation of any kind, at either a special or a general election as the General Assembly may prescribe.

The ballot language for such proposed amendments shall be prescribed by a majority of the Ohio ballot board, consisting of the secretary of state and four other members, who shall be designated in a manner prescribed by law and not more than two of whom shall be members of the same political party. The ballot language shall properly identify the substance of the proposal to be voted upon. The ballot need not contain the full text nor a condensed text of the proposal. The board shall also prepare an explanation of the proposal, which may include its purpose and effects, and shall certify the ballot language and the explanation to the secretary of state not later than seventy-five days before the election. The ballot language and the explanation shall be available for public inspection in the office of the secretary of state.

The Supreme Court shall have exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. No such case challenging the ballot language, the explanation, or the actions or procedures of the General Assembly in adopting and submitting a constitutional amendment shall be filed later than sixty-four days before the election. The ballot language shall not be held invalid unless it is such as to mislead, deceive, or defraud the voters.

Unless the General Assembly otherwise provides by law for the preparation of arguments for and, if any, against a proposed amendment, the board may prepare such arguments.

Such proposed amendments, the ballot language, the explanations, and the arguments, if any, shall be published once a week for three consecutive weeks preceding such election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The General Assembly shall provide by law for other dissemination of information in order to inform the electors concerning proposed amendments. An election on a proposed constitutional amendment submitted by the general assembly shall not be enjoined nor invalidated because the explanation, arguments, or other information is faulty in any way. If the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

Ohio Constitution, Article IV, Section 2: Organization and jurisdiction of Supreme Court

(A) The Supreme Court shall, until otherwise provided by law, consist of seven judges, who shall be known as the chief justice and justices. In case of the absence or disability of the chief justice, the judge having the period of longest total service upon the court shall be the acting chief justice. If any member of the court shall be unable, by reason of illness, disability or disqualification, to hear, consider and decide a cause or causes, the chief justice or the acting chief justice may direct any judge of any court of appeals to sit with the judges of the supreme

court in the place and stead of the absent judge. A majority of the Supreme Court shall be necessary to constitute a quorum or to render a judgment.

(B)(1) The Supreme Court shall have original jurisdiction in the following:

- (a) Quo warranto;
- (b) Mandamus;
- (c) Habeas corpus;
- (d) Prohibition;
- (e) Procedendo;
- (f) In any cause on review as may be necessary to its complete determination;
- (g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

(2) The supreme court shall have appellate jurisdiction as follows:

(a) In appeals from the courts of appeals as a matter of right in the following:

- (i) Cases originating in the courts of appeals;
- (ii) Cases involving questions arising under the constitution of the United States or of this state.

(b) In appeals from the courts of appeals in cases of felony on leave first obtained,

(c) In direct appeals from the courts of common pleas or other courts of record inferior to the court of appeals as a matter of right in cases in which the death penalty has been imposed;

(d) Such revisory jurisdiction of the proceedings of administrative officers or agencies as may be conferred by law;

(e) In cases of public or great general interest, the supreme court may direct any court of appeals to certify its record to the supreme court, and may review and affirm, modify, or reverse the judgment of the court of appeals;

(f) The Supreme Court shall review and affirm, modify, or reverse the judgment in any case certified by any court of appeals pursuant to section 3(B)(4) of this article.

(3) No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.

(C) The decisions in all cases in the Supreme Court shall be reported, together with the reasons

therefor.

Michigan Constitution, Article II, Section 4: Place and manner of elections

(1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The fundamental right to vote, including but not limited to the right, once registered, to vote a secret ballot in all elections. No person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.

Any Michigan citizen or citizens shall have standing to bring an action for declaratory, injunctive, and/or monetary relief to enforce the rights created by this part (a) of subsection (4)(1) on behalf of themselves. Those actions shall be brought in the circuit court for the county in which a plaintiff resides. If a plaintiff prevails in whole or in part, the court shall award reasonable attorneys' fees, costs, and disbursements.

For purposes of this part (a) of subsection (4)(1), "person" means an individual, association, corporation, joint stock company, labor organization, legal representative, mutual company, partnership, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal entity, and includes an agent of a person.

(b) The right, if serving in the military or living overseas, to have an absent voter ballot sent to them at least forty-five (45) days before an election upon application and to have their absent voter ballot deemed timely received if postmarked on or before election day and received by the appropriate election official within six (6) days after such election. For purposes of this part (b) of subsection (4)(1), a postmark shall include any type of mark applied by the United States Postal Service or any delivery service to the return envelope, including but not limited to a bar code or any tracking marks, which indicates when a ballot was mailed.

(c) The right, once registered, to a "straight party" vote option on partisan general election ballots. In partisan elections, the ballot shall include a position at the top of the ballot by which the voter may, by a single selection, record a straight party ticket vote for all the candidates of one (1) party. The voter may vote a split or mixed ticket.

(d) The right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card, unless the person declines such registration.

(e) The right to register to vote for an election by mailing a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications.

(f) The right to register to vote for an election by (1) appearing in person and submitting a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications, or (2) beginning on the fourteenth (14th) day before that election and continuing through the day of that election, appearing in person, submitting a completed voter registration application and providing proof of residency to an election official responsible for maintaining custody of the registration file where the person resides, or their deputies. Persons registered in accordance with subsection (1)(f) shall be immediately eligible to receive a regular or absent voter ballot.

(g) The right, once registered, to prove their identity when voting in person or applying for an absent voter ballot in person by (1) presenting their photo identification, including photo identification issued by a federal, state, local, or tribal government or an educational institution, or (2) if they do not have photo identification or do not have it with them, executing an affidavit verifying their identity. A voter shall not be required to vote a provisional ballot solely because they executed an affidavit to prove their identity.

(h) The right, once registered, to vote an absent voter ballot without giving a reason, during the forty (40) days before an election, and the right to choose whether the absent voter ballot is applied for, received and submitted in person or by mail. During that time, election officials authorized to issue absent voter ballots shall be available in at least one (1) location to issue and receive absent voter ballots during the election officials' regularly scheduled business hours and for at least eight (8) hours during the Saturday and/or Sunday immediately prior to the election. Those election officials shall have the authority to make absent voter ballots available for voting in person at additional times and places beyond what is required herein. Voters shall have the right to prove their identity when applying for or voting an absent voter ballot other than in person by providing their signature to the election official authorized to issue absent voter ballots. Those election officials shall: (1) verify the identity of a voter who applies for an absent voter ballot other than in person by comparing the voter's signature on the absent voter ballot application to the voter's signature in their registration record; and (2) verify the identity of a voter who votes an absent voter ballot other than in person by comparing the signature on the absent voter ballot envelope to the signature on the voter's absent voter ballot application or the signature in the voter's registration record. If those election officials determine from either of the comparisons in (1) or (2) of this part (h) of subsection (4)(1) that the signatures do not sufficiently agree, or if the voter's signature on the absent voter ballot application or absent voter ballot envelope is missing, the voter has a right to be notified immediately and afforded due process, including an equitable opportunity to correct the issue with the signature.

(i) The right to: (1) state-funded prepaid postage to return an absent voter ballot application provided to them by a Michigan election official; (2) state-funded prepaid postage to return a voted absent voter ballot; and (3) a state-funded system to track submitted absent voter ballot applications and absent voter ballots. The system shall permit voters to elect to receive electronic notifications regarding the status of the voter's submitted absent voter ballot application and absent voter ballot, inform voters of any deficiency with the voter's submitted absent voter ballot application or absent voter ballot, and provide instructions for addressing any such deficiency.

(j) The right to at least one (1) state-funded secure drop-box for every municipality, and for municipalities with more than fifteen thousand (15,000) registered voters at least one (1) drop-box for every fifteen thousand (15,000) registered voters, for the return of completed absent voter ballot applications and voted absent voter ballots. Secure drop-boxes shall be distributed equitably throughout the municipality and shall be accessible twenty-four (24) hours per day during the forty (40) days prior to any election and until eight (8) pm on election day.

(k) The right, once registered, to have an absent voter ballot sent to the voter before each election by submitting a single signed absent voter ballot application covering all future elections. An election official responsible for issuing absent voter ballots shall issue an absent voter ballot for each election to every voter in the jurisdiction who has exercised the right in this part (k) of subsection (4)(1) and shall not require such voter to submit a separate application for an absent voter ballot for any election. A voter's exercise of this right shall be rescinded only if: (1) the voter submits a signed request to rescind; (2) the voter is no longer qualified to vote; (3)

the secretary of state or the election official responsible for issuing the voter an absent voter ballot receives reliable information that the voter has moved to another state, or has moved within this state without updating their voter registration address; or (4) the voter does not vote for six (6) consecutive years. The exercise of the right in this part (k) of subsection (4)(1) shall remain in effect without the need for a new absent voter ballot application when the voter changes their residence in this state and updates their voter registration address.

(l) The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections. The secretary of state shall conduct election audits, and shall supervise and direct county election officials in the conduct of such audits. No officer or member of the governing body of a national, state, or local political party, and no political party precinct delegate, shall have any role in the direction, supervision, or conduct of an election audit. Public election officials shall maintain the security and custody of all ballots and election materials during an election audit. Election audits shall be conducted in public based on methods finalized and made public prior to the election to be audited. All funding of election audits shall be publicly disclosed.

(m) The right, once registered, to vote in each statewide and federal election in person at an early voting site prior to election day. Voters at early voting sites shall have the same rights and be subject to the same requirements as voters at polling places on election day. An early voting site is a polling place and shall be subject to the same requirements as an election day polling place, except that an early voting site may serve voters from more than six (6) precincts and may serve voters from more than one (1) municipality within a county. An early voting site shall also be subject to the same requirements as an election day precinct, except that any statutory limit on the number of voters assigned to a precinct shall not apply to an early voting site. Each early voting site shall be open for at least nine (9) consecutive days beginning on the second Saturday before the election and ending on the Sunday before the election, for at least eight (8) hours each day, and may be open for additional days and hours beyond what is required herein at the discretion of the election official authorized to issue ballots in the jurisdiction conducting the election. Jurisdictions conducting elections within a county may enter into agreements to share early voting sites. A jurisdiction conducting an election may enter into an agreement with the clerk of the county in which it is located authorizing the county clerk to conduct early voting for the jurisdiction. Jurisdictions conducting non-statewide elections may offer early voting for such elections in accordance with the provisions of this part (m) of subsection (4)(1). No early voting results shall be generated or reported until after eight (8) pm on election day.

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for

identification of candidates for the same office who have the same or similar surnames.

(3) A county, city, or township conducting an election may accept and use publicly-disclosed charitable donations and in-kind contributions to conduct and administer elections. The county, city, or township shall retain discretion over whether to accept or use any such donations or contributions. Charitable donations and in-kind contributions of foreign funds or from foreign sources are prohibited.

Ohio Revised Code, Title 35, Section 3505.062: Ohio ballot board duties

The Ohio ballot board shall do all of the following:

(A) Examine, within ten days after its receipt, each written initiative petition received from the attorney general under section 3519.01 of the Revised Code to determine whether it contains only one proposed law or constitutional amendment so as to enable the voters to vote on a proposal separately. If the board so determines, it shall certify its approval to the attorney general, who then shall file with the secretary of state in accordance with division (A) of section 3519.01 of the Revised Code a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general's certification of it.

If the board determines that the initiative petition contains more than one proposed law or constitutional amendment, the board shall divide the initiative petition into individual petitions containing only one proposed law or constitutional amendment so as to enable the voters to vote on each proposal separately and certify its approval to the attorney general. If the board so divides an initiative petition and so certifies its approval to the attorney general, the petitioners shall resubmit to the attorney general appropriate summaries for each of the individual petitions arising from the board's division of the initiative petition, and the attorney general then shall review the resubmissions as provided in division (A) of section 3519.01 of the Revised Code.

(B) Prescribe the ballot language for constitutional amendments proposed by the general assembly to be printed on the questions and issues ballot, which language shall properly identify the substance of the proposal to be voted upon;

(C) Prepare an explanation of each constitutional amendment proposed by the general assembly, which explanation may include the purpose and effects of the proposed amendment;

(D) Certify the ballot language and explanation, if any, to the secretary of state no later than seventy-five days before the election at which the proposed question or issue is to be submitted to the voters;

(E) Prepare, or designate a group of persons to prepare, arguments in support of or in opposition to a constitutional amendment proposed by a resolution of the general assembly, a constitutional amendment or state law proposed by initiative petition, or a state law, or section or item of state law, subject to a referendum petition, if the persons otherwise responsible for the preparation of those arguments fail to timely prepare and file them;

(F) Direct the means by which the secretary of state shall disseminate information concerning

proposed constitutional amendments, proposed laws, and referenda to the voters;

(G) Direct the secretary of state to contract for the publication in a newspaper of general circulation in each county in the state of the ballot language, explanations, and arguments regarding each of the following:

(1) A constitutional amendment or law proposed by initiative petition under Section 1g of Article II of the Ohio Constitution;

(2) A law, section, or item of law submitted to the electors by referendum petition under Section 1g of Article II of the Ohio Constitution;

(3) A constitutional amendment submitted to the electors by the general assembly under Section 1 of Article XVI of the Ohio Constitution.

Ohio Revised Code, Title 35, Section 3519.01: Initiative and referendum petitions

(A) Only one proposal of law or constitutional amendment to be proposed by initiative petition shall be contained in an initiative petition to enable the voters to vote on that proposal separately. A petition shall include the text of any existing statute or constitutional provision that would be amended or repealed if the proposed law or constitutional amendment is adopted.

Whoever seeks to propose a law or constitutional amendment by initiative petition shall, by a written petition signed by one thousand qualified electors, submit the proposed law or constitutional amendment and a summary of it to the attorney general for examination. Within ten days after the receipt of the written petition and the summary of it, the attorney general shall conduct an examination of the summary. If, in the opinion of the attorney general, the summary is a fair and truthful statement of the proposed law or constitutional amendment, the attorney general shall so certify and then forward the submitted petition to the Ohio ballot board for its approval under division (A) of section 3505.062 of the Revised Code. If the Ohio ballot board returns the submitted petition to the attorney general with its certification as described in that division, the attorney general shall then file with the secretary of state a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general's certification.

Whenever the Ohio ballot board divides an initiative petition into individual petitions containing only proposed law or constitutional amendment under division (A) of section 3505.062 of the Revised Code resulting in the need for the petitioners to resubmit to the attorney general appropriate summaries for each of the individual petitions arising from the board's division of the initiative petition, the attorney general shall review the resubmitted summaries, within ten days after their receipt, to determine if they are a fair and truthful statement of the respective proposed laws or constitutional amendments and, if so, certify them. These resubmissions shall contain no new explanations or arguments. Then, the attorney general shall file with the secretary of state a verified copy of each of the proposed laws or constitutional amendments together with their respective summaries and the attorney general's certification of each.

(B)(1) Whoever seeks to file a referendum petition against any law, section, or item in any law shall, by a written petition signed by one thousand qualified electors, submit the measure to be referred and a summary of it to the secretary of state and, on the same day or within one business day before or after that day, submit a copy of the petition, measure, and summary to the attorney general.

(2) Not later than ten business days after receiving the petition, measure, and summary, the secretary of state shall do both of the following:

(a) Have the validity of the signatures on the petition verified;

(b) After comparing the text of the measure to be referred with the copy of the enrolled act on file in the secretary of state's office containing the law, section, or item of law, determine whether the text is correct and, if it is, so certify.

(3) Not later than ten business days after receiving a copy of the petition, measure, and summary, the attorney general shall examine the summary and, if in the attorney general's opinion, the summary is a fair and truthful statement of the measure to be referred, so certify.

(C) Any person who is aggrieved by a certification decision under division (A) or (B) of this section may challenge the certification or failure to certify of the attorney general in the supreme court, which shall have exclusive, original jurisdiction in all challenges of those certification decisions.

Ohio Revised Code, Title 35, Section 3519.05: Form of petitions

(A) If the measure to be submitted proposes a constitutional amendment, the heading of each part of the petition shall be prepared in the following form, and printed in capital letters in type of the approximate size set forth:

"INITIATIVE PETITION

Amendment to the Constitution

Proposed by Initiative Petition

To be submitted directly to the electors"

"Amendment" printed in fourteen-point boldface type shall precede the title, which shall be briefly expressed and printed in eight-point type. The summary shall then be set forth printed in ten-point type, and then shall follow the certification of the attorney general, under proper date, which shall also be printed in ten-point type. The petition shall then set forth the names and addresses of the committee of not less than three nor more than five to represent the petitioners in all matters relating to the petition or its circulation.

Immediately above the heading of the place for signatures on each part of the petition the

following notice shall be printed in boldface type:

"NOTICE

Whoever knowingly signs this petition more than once; except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution."

The heading of the place for signatures shall be substantially as follows:

"(Sign with ink. Your name, residence, and date of signing must be given.)

Rural Route or
other Post-
Signature CountyTownship office Address Month Day Year

(Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.)

(Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

City Street
or and
Signature CountyVillageNumber Ward Precinct Month Day Year"

The text of the proposed amendment shall be printed in full, immediately following the place for signatures, and shall be prefaced by "Be it resolved by the people of the State of Ohio." Immediately following the text of the proposed amendment must appear the following form:

"I, _____, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of _____ electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by _____ (Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

(Signed) _____

(Address of circulator's permanent
residence in this state)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

(B) If the measure proposes a law, the heading of each part of the petition shall be prepared as follows:

"INITIATIVE PETITION

Law proposed by initiative petition first to be submitted to the General Assembly."

In all other respects, the form shall be as provided for the submission of a constitutional amendment, except that the text of the proposed law shall be prefaced by "Be it enacted by the people of the state of Ohio."

The form for a supplementary initiative petition shall be the same as that provided for an initiative petition, with the exception that "supplementary" shall precede "initiative" in the title thereof.

(C) The general provisions set forth in this section relative to the form and order of an initiative petition shall be, so far as practical, applicable to a referendum petition, the heading of which shall be as follows:

"REFERENDUM PETITION

To be submitted to the electors for their approval or rejection"

The title, which follows the heading, shall contain a brief legislative history of the law, section, or item of law to be referred. The text of the law so referred shall be followed by the certification of the secretary of state, in accordance with division (B)(2)(b) of section 3519.01 of the Revised Code, that it has been compared with the copy of the enrolled act, on file in the secretary of state's office, containing such law, section, or item of law, and found to be correct.

(D) The secretary of state shall prescribe a form for part petitions to be submitted during the ten-day period beginning on the first day following the date that the secretary of state notifies the chairperson of the committee interested in the petition that the petition has an insufficient number of valid signatures. The secretary of state shall provide to each particular committee a different form that contains a unique identifier and that is separate from the forms prescribed in divisions (A), (B), and (C) of this section. The secretary of state shall make the form available to

the committee only as described in division (F) of section 3519.16 of the Revised Code. The form shall not be considered a public record until after the secretary of state makes it available to the committee under that division.

The form shall comply with the requirements of Section 1g of Article II, Ohio Constitution and, except as otherwise provided in this division, with the requirements of divisions (A), (B), and (C) of this section.

Ohio Revised Code, Title 35, Section 3519.21: Ballot title and order

The order in which all propositions, issues, or questions, including proposed laws and constitutional amendments, shall appear on the ballot and the ballot title of all such propositions, issues, or questions shall be determined by the secretary of state in case of propositions to be voted upon in a district larger than a county, and by the board of elections in a county in the case of a proposition to be voted upon in a county or a political subdivision thereof. In preparing such a ballot title the secretary of state or the board shall give a true and impartial statement of the measures in such language that the ballot title shall not be likely to create prejudice for or against the measure. The person or committee promoting such measure may submit to the secretary of state or the board a suggested ballot title, which shall be given full consideration by the secretary of state or board in determining the ballot title.

Except as otherwise provided by law, all propositions, issues, or questions submitted to the electors and receiving an affirmative vote of a majority of the votes cast thereon are approved.

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