

Circuit Court for Anne Arundel County
Case No. C-02-CV-26-001986

Circuit Court for Dorchester County
Case No. C-09-CV-26-000285

Argued: September 3, 2026

IN THE SUPREME COURT

OF MARYLAND

Nos. 21 & 22
September Term, 2026

MARYLAND STATE BOARD OF
ELECTIONS, et al.

v.

MICHAEL L. HOWELL, et al.

MARYLAND STATE BOARD OF
ELECTIONS, et al.

v.

LINDSAY WHEATLEY, et al.

Fader, C.J.,
Watts,
Booth,
Gould,
Eaves,
Killough,
Harrell, Glenn T.
(Senior Justice, Specially
Assigned),

JJ.

PER CURIAM ORDER

Filed: September 3, 2026

Pursuant to the Maryland Uniform Electronic Legal
Materials Act (§§ 10-1601 et seq. of the State
Government Article) this document is authentic.



Gregory Hilton, Clerk

*Biran, J., did not participate in this matter.

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* IN THE
* SUPREME COURT
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* No. 21
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PER CURIAM ORDER

In a special session held on August 3 through 5, 2026, the Maryland General Assembly enacted Chapter 881 of the 2026 Laws of Maryland, which proposed an amendment to the Maryland Constitution. The purpose paragraph of Chapter 881 states:

FOR the purpose of clarifying that certain requirements apply only to districts for the election of members of the Senate of Maryland and the House of Delegates; authorizing the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and providing that nothing in the Maryland Constitution provides applicable criteria for the boundaries of a congressional districting plan.

Section 1 of Chapter 881 would amend Article III of the Constitution of Maryland by adding language to § 4 of that Article and adopting a new § 62, as follows (new language is in bold and all caps):

Article III – Legislative Department

4.

Each legislative district **FOR THE ELECTION OF A MEMBER OF THE SENATE AND MEMBERS OF THE HOUSE OF DELEGATES** shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.

62.

(A) THE GENERAL ASSEMBLY SHALL HAVE THE POWER TO GRANT ORIGINAL JURISDICTION TO THE SUPREME COURT OF MARYLAND TO REVIEW THE CONGRESSIONAL DISTRICTING PLAN OF THE STATE.

(B) NOTHING IN THIS ARTICLE OR ELSEWHERE IN THIS CONSTITUTION, INCLUDING THE DECLARATION OF RIGHTS, PROVIDES APPLICABLE CRITERIA FOR THE BOUNDARIES OF A CONGRESSIONAL DISTRICTING PLAN.

2026 Md. Laws, Ch. 881, § 1.

Chapter 881 further provided that the proposed amendment “shall be submitted to the qualified voters of the State at the next general election to be held in November 2026 for adoption or rejection in accordance with Article XIV of the Maryland Constitution.” *Id.* § 3(a). And Chapter 881 specified the form of the question to appear on the ballot as follows:

(b) (1) At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the

words “For the Constitutional Amendment” and “Against the Constitutional Amendment”, as now provided by law.

(2) ~~At that general election, a question substantially similar to the following~~
Notwithstanding any other provision of law, at that general election, the following question shall be submitted to the qualified voters of the State:

“Question ____ – Constitutional Amendment

The proposed Constitutional Amendment clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.”.

Id. § 3(b).¹

The Fiscal and Policy Note pertaining to Chapter 881 provides that the “proposed constitutional amendment, if approved by the voters at the next general election, establishes that (1) nothing in the Maryland Constitution, including the Declaration of Rights, provides applicable criteria for the boundaries of a congressional districting plan; (2) specified provisions of the Maryland Constitution regarding legislative districts apply explicitly to the election of members of the Senate and House of Delegates; and (3) the General Assembly must have the power to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State.”

Under the power granted by Article XIV of the Constitution of Maryland, more than three-fifths of all the elected members of both houses of the General Assembly passed

¹ The original version of the bill contained the stricken language, later struck by a floor amendment. A floor amendment also replaced the stricken language with the underlined language.

Chapter 881. For purposes of the ballot, the question was later assigned the identifier “Question 3.”

In the Circuit Court for Anne Arundel County, ten registered Maryland voters² filed a Complaint and Petition for Review under § 12-202 of the Election Law Article challenging the placement of Question 3 on the November 3, 2026 general election ballot. The circuit court granted the voters’ motion for summary judgment, denied the State defendants’ motion for summary judgment, enjoined the State Board of Elections from including the proposed constitutional amendment on the ballot, and stayed execution of the injunction pending an appeal in this Court. The circuit court reasoned that (1) Chapter 881 is “legally deficient” because the General Assembly did not enact the law in time to meet certain requirements set out in Title VII of the Election Law Article; (2) the language of Question 3 is misleading and therefore deficient; and (3) Question 3 violates the single-subject requirement of the Constitution of Maryland.

In the Circuit Court for Dorchester County, five registered Maryland voters³ filed a separate but similar challenge. That circuit court similarly granted the voters’ motion for summary judgment, denied the State defendants’ motion for summary judgment, enjoined

² The plaintiff-appellees in the Anne Arundel County case are Michael L. Howell, James Matthew Morgan, Robin L. Grammer, Jr., Kathryn Szeliga, Brian Alan Chisholm, Mark Nicholas Fisher, Lauren Arian, Ryan Michael Nawrocki, Stephen S. Hershey, and Justin D. Ready.

³ The plaintiff-appellees in the Dorchester County case are Lindsay Mydra Wheatley, Mary Beth Carozza, Christopher Troy Adams, John Frederick Mautz IV, and Christopher Read West.

the State Board of Elections from including the proposed constitutional amendment on the ballot, and stayed execution of the injunction pending an appeal in this Court. The circuit court reasoned that (1) the language of Question 3 is misleading and therefore does not provide sufficient constitutional notice to voters; (2) the General Assembly did not enact the law in time to meet the requirements set out in Title VII of the Election Law Article; and (3) Question 3 violates the single-subject requirement of the Maryland Constitution.

The defendants in those cases, the State Board of Elections and other government officials,⁴ noted direct appeals to this Court. This Court issued orders expediting briefing and argument in both cases, ordering that Appellants' brief and record extract be filed no later than 5:00 p.m. on August 28, 2026, that Appellees' brief be filed no later than 12:00 p.m. on September 1, 2026, and that any reply brief be filed no later than 12:00 p.m. on September 2, 2026. We held oral argument on September 3, 2026.

For reasons to be set forth more fully in an opinion to be filed later, we hold:

First, that the circuit courts erred, at least in part, in awarding summary judgment to the plaintiffs and in enjoining the State Board of Elections from placing Question 3 on the

⁴ The other defendant-appellants in one or both cases are Jared DeMarinis, the Administrator of the State Board of Elections; Susan C. Lee, the Secretary of State of Maryland; Anthony G. Brown, the Attorney General of Maryland; Westley Moore, the Governor of Maryland; Jim Shalleck, Victoria Jackson-Stanley, Diane Butler, Eric Bryant, members of the State Board of Elections; the Dorchester County Board of Elections; the Worcester County Board of Elections; the Wicomico County Board of Elections; the Talbot County Board of Elections; and the Baltimore County Board of Elections.

November 2026 general election ballot due to the inability of executive branch officials to comply completely with the requirements of Title VII of the Election Law Article.

Second, that the circuit courts erred in awarding summary judgment to the plaintiffs and in enjoining the State Board of Elections from placing Question 3 on the November 2026 general election ballot due to violation of the single-subject requirement of the Maryland Constitution.

Third, that the circuit courts did not err in awarding summary judgment to the plaintiffs, at least in part, on the ground that the ballot language in Question 3 is misleading and therefore violates due process requirements. Specifically, the clause in the ballot question that states that the proposed Constitutional Amendment “requires the criteria for boundaries of congressional districts to be determined by applicable federal laws” is misleading, is not set forth in the purpose paragraph of Chapter 881, and violates due process rights. However, the circuit courts erred in enjoining the State Board of Elections from placing Question 3 on the November 2026 general election ballot. The election challenges at issue were filed pursuant to § 12-202 of the Election Law Article. In adjudicating such disputes, § 12-204(c) of that Article provides:

(c) If the court makes an affirmative determination that an act or omission has been committed that may change the outcome of a pending election, the court may:

(1) order any relief it considers appropriate under the circumstances;
and

(2) if the court determines that it is the only relief that will provide a remedy, direct that the election for the office or question involved be postponed and rescheduled on a date set by the court.

An available remedy in this case that is appropriately respectful of the General Assembly's constitutional authority to propose constitutional amendments to the voters of this State is to substitute the purpose paragraph of Chapter 881 for the text of the question. Accordingly, we will affirm in part and reverse in part the judgments of both circuit courts and remand these cases to them for entry of orders requiring the State Board of Elections to substitute the purpose paragraph of Chapter 881 as the text of Question 3.

Accordingly, it is this 3rd day of September 2026, by the Supreme Court of Maryland, a majority of the Court concurring,

ORDERED that the judgment of the Circuit Court for Anne Arundel County is affirmed in part and reversed in part; and it is further

ORDERED that the judgment of the Circuit Court for Dorchester County is affirmed in part and reversed in part; and it is further

ORDERED that these cases are remanded to those courts with instructions to, by no later than September 4, 2026, enter orders resolving the parties' respective motions for summary judgment consistent with this per curiam order; and it is further

ORDERED that the orders entered by the circuit courts shall order the State Board of Elections to replace the text of Question 3 that currently reads:

The proposed Constitutional Amendment clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.

with the language of the purpose paragraph of Chapter 881, which reads:

FOR the purpose of clarifying that certain requirements apply only to districts for the election of members of the Senate of Maryland and the House of Delegates; authorizing the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and providing that nothing in the Maryland Constitution provides applicable criteria for the boundaries of a congressional districting plan.

; and it is further

ORDERED that costs in each case are to be split evenly by the parties to that case.

The mandate shall issue forthwith.

/s/ Matthew J. Fader

Chief Justice

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Dissenting Opinion of Gould, J.

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I would affirm the judgments of both circuit courts in these consolidated matters and respectfully dissent from the Majority's Per Curiam Order. I will write a more fulsome dissent to the opinion the Majority will later file, so for now I will limit my comments to two points.

First, I am skeptical that § 12-204 of the Election Law Article authorizes us to draft ballot language. Even if we had such authority, I am perplexed that we would do so when, as here, a majority of the Court has determined that the General Assembly drafted and

sought to submit a misleading ballot question to the voters. The General Assembly claimed the prerogative to draft the question; it should bear the consequences of drafting a misleading one. It's not our job to rewrite the question for the General Assembly.

Second, the Majority's rewritten question remains misleading. Maryland voters reading it would not understand that the criteria being removed include the guarantees of the Declaration of Rights—the collection of sacred rights that protect Marylanders against government overreach. Yet, if this amendment is adopted, Articles 7, 24, and 40 of the Declaration of Rights will provide no criteria against which a congressional districting plan may be measured. Those are the provisions under which a Marylander could challenge a plan drawn to disadvantage a religious minority or punish citizens for their political expression or association. These are not redundant guarantees. A Maryland constitutional provision that has a federal counterpart remains “independent,” and “a violation of one is not necessarily a violation of the other.” *Att’y Gen. v. Waldron*, 289 Md. 683, 714 (1981). That such a provision is in pari materia with a federal one “does not mean that [it] will always be interpreted or applied in the same manner as its federal counterpart.” *Dua v. Comcast Cable of Md., Inc.*, 370 Md. 604, 621 (2002). Article 7 “has been held to be even more protective of rights of political participation than the provisions of the federal Constitution.” *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 150 (2003). The average Maryland voter would not understand, from the Majority's rewritten question, that a vote for Question 3 is a vote to eliminate rights he or she currently enjoys under the Declaration of Rights.

For these and other reasons that will be set forth in a later dissenting opinion, I respectfully dissent from the Per Curiam Order. Senior Justice Harrell authorizes me to state that he joins my dissent.