

IN THE SUPREME COURT OF OHIO

**State of Ohio *ex rel.* Ohioans United for  
Reproductive Rights**

545 East Town Street  
Columbus, OH 43215

**State of Ohio *ex rel.* David Hackney**

2918 Huntington Road  
Cleveland, OH 44120

**State of Ohio *ex rel.* Nancy Kramer**

955 Urlin Avenue  
Columbus, OH 43212

**State of Ohio *ex rel.* Jennifer McNally**

2409 Brentwood Road  
Bexley, OH 43209

**State of Ohio *ex rel.* Ebony Speakes-Hall**

6617 English Oaks Station  
Liberty Township, OH 45044

and

**State of Ohio *ex rel.* Aziza Wahby**

2971 Paxton Road  
Shaker Heights, OH 44120

**Relators,**

v.

**Ohio Ballot Board**

22 North Fourth Street, 16th Floor  
Columbus, OH 43215

**Frank LaRose, in his official capacities as  
Chair of the Ohio Ballot Board and Ohio  
Secretary of State**

22 North Fourth Street, 16th Floor  
Columbus, OH 43215

Case No. \_\_\_\_\_

Original Action in Mandamus Pursuant to  
Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case Pursuant to  
Supreme Court Rule of Practice 12.08

Peremptory and Alternative Writs  
Requested

**Senator Theresa Gavarone, in her official capacity as Member of the Ohio Ballot Board**  
1 Capitol Square, 1st Floor 138  
Columbus, OH 43215

**Senator Paula Hicks-Hudson, in her official capacity as Member of the Ohio Ballot Board**  
1 Capitol Square, Ground Floor 057  
Columbus, OH 43215

**William Morgan, in his official capacity as Member of the Ohio Ballot Board**  
8740 Stoutsville Pike  
Stoutsville, OH 43154

and

**Representative Elliot Forhan, in his official capacity as Member of the Ohio Ballot Board**  
77 S. High Street, 10th Floor  
Columbus, OH 43215

**Respondents.**

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**VERIFIED COMPLAINT UNDER ARTICLE XVI, SECTION 1 OF THE OHIO  
CONSTITUTION AND FOR WRIT OF MANDAMUS**

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This original action under Article II, Section 1g and Article XVI, Section 1 of the Ohio Constitution, and in mandamus, is brought in the name of the State of Ohio on the relation of Ohioans United for Reproductive Rights, David Hackney, Nancy Kramer, Jennifer McNally, Ebony Speakes-Hall, and Aziza Wahby (collectively, “Relators”). This November, the people of Ohio will vote on Issue 1, a citizen-initiated amendment that would create Article I, Section 22 of the Ohio Constitution, to be entitled “The Right to Reproductive Freedom with Protections for Health and Safety” (the “Amendment”). Article XVI of the Ohio Constitution requires the Ohio Ballot Board to prescribe ballot language for the Amendment that “properly identif[ies] the substance of the proposal to be voted upon” and does not “mislead, deceive, or defraud” voters. The language the Ballot Board adopted at its August 24, 2023, meeting flouts those requirements and aims improperly to mislead Ohioans and persuade them to oppose the Amendment. Accordingly, Relators request that the Court issue a writ of mandamus directing the Ballot Board to reconvene and adopt the full text of the Amendment as the ballot language. That remedy is appropriate because the Ballot Board’s prescribed language is irreparably flawed. In the alternative, Relators request that the Court issue a writ of mandamus directing the Ballot Board to reconvene and adopt ballot language that properly and lawfully describes the Amendment, correcting the numerous defects in the existing language that are described in more detail below.

### **INTRODUCTION**

1. Just over a year ago, the United States Supreme Court determined that “the authority to regulate abortion must be returned to the people and their elected representatives.” *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2279 (2022). The people of Ohio will exercise that authority this November by adopting or rejecting Issue 1, a proposed constitutional amendment that would establish “The Right to Reproductive Freedom with Protections for Health and Safety.”

2. If approved, the Amendment would guarantee in the Ohio Constitution the individual right to make and carry out reproductive decisions for oneself—including decisions about (i) contraception, (ii) fertility treatment, (iii) continuing one’s own pregnancy, (iv) miscarriage care, and (v) abortion. The Amendment would allow the State to regulate such decisions insofar as it uses the “least restrictive means to advance the pregnant individual’s health in accordance with widely accepted and evidence-based standards of care.” After fetal viability, the Amendment would authorize the State to restrict abortion or to prohibit it outright, subject only to an exception to protect the pregnant person’s life or health.

3. Ohioans are constitutionally entitled to ballot language that allows them to make an informed decision about how they will cast their votes. And so, this case asks a question of great consequence: When voters turn to Issue 1 on their ballots this fall, will they find ballot language that fully, accurately, and impartially describes the Amendment’s scope and effects? Or, conversely, will voters be confronted with language that obscures that scope and distorts those effects?

4. The prescribed ballot language—drafted and introduced by Respondent Secretary of State Frank LaRose and approved by Respondent the Ohio Ballot Board in a 3-to-2 vote—fails to comport with the Ballot Board’s duty to provide ballot language that impartially, accurately, and completely describes the Amendment’s effects. Instead, it is a naked attempt to prejudice voters against the Amendment. To name just a few of the adopted ballot language’s numerous flaws:

- By its plain language, the Amendment would restrict “the State”—defined to mean “any governmental entity and any political subdivision”—from burdening, penalizing, prohibiting, interfering with, or discriminating against Ohioans’ exercise of their right

to make reproductive decisions. The adopted ballot language, in contrast, says that the Amendment would impose that restriction not on the State, but instead on “the *citizens* of the State of Ohio”—an objective falsehood.

- The Amendment would give Ohioans the “right to make and carry out one’s own *reproductive decisions*.” The adopted ballot language misstates this as a right to “reproductive *medical treatment*”—a phrase which suggests, falsely, that the Amendment would require the State of Ohio to *guarantee*—and thus *provide and pay for*—any reproductive medical treatment an individual chooses.
- The Amendment guarantees a pregnant person’s right to make the decision to continue one’s own pregnancy. As such, it generally prohibits the State from interfering with that decision—even when doing so may have risks for the pregnant person’s life or health. The ballot language inverts this protection, suggesting that the Amendment would “[a]lways *allow* an unborn child to be aborted . . . if, in the treating physician’s determination, the abortion is necessary to protect the pregnant woman’s life or health.” In fact, the Amendment would *prohibit* such an abortion if the patient objects to it.
- The Amendment would protect reproductive decisions, including *five* express categories of personal reproductive decisions: those to do with contraception, fertility treatment, continuing a pregnancy, miscarriage care, and abortion. Yet the ballot language mentions *only* abortion, obscuring much of the Amendment’s scope.

5. These and other defects set out below render the ballot language unlawful. Contrary to the clear directive of Article XVI of the Ohio Constitution, the ballot language does not “properly identify the substance of the proposal to be voted upon.” Instead, it attempts to “mislead, deceive, or defraud the voters.”

6. Compounding these shortcomings is the fact that the Ballot Board was asked to put the clear, simple 194-word text of the Amendment itself on the ballot, so that voters could see exactly what they were being asked to approve. But the Ballot Board refused, instead adopting a wholesale rewrite. Indeed, the adopted language is *longer* (by word count) than the Amendment it purports to condense. All these new and extra words serve one purpose—to distort the actual text and meaning of the Amendment.

7. To state the obvious: Abortion is one of the most divisive issues of our time. It implicates profound questions of ethics, morality, autonomy, and the role of government. As the United States Supreme Court put it in *Dobbs*:

Some believe fervently that a human person comes into being at conception and that abortion ends an innocent life. Others feel just as strongly that any regulation of abortion invades a woman's right to control her own body and prevents women from achieving full equality. Still others in a third group think that abortion should be allowed under some but not all circumstances, and those within this group hold a variety of views about the particular restrictions that should be imposed.

142 S. Ct. at 2240. So, it is perhaps not surprising that the months since the Amendment was proposed have been contentious. That reality will not be lost on this Court, which has been repeatedly called upon to settle questions implicating the Amendment.

8. Yet despite the strong feelings surrounding the Amendment, Ohio's elected officials have, for the most part, lawfully and impartially discharged their Amendment-related duties. Attorney General Yost, for one, voiced his strong disagreement with the Amendment's substance, yet still approved the Amendment's petition summary because it complied with all legal requisites. And though several Justices of this Court may well share the Attorney General's substantive opposition to the Amendment as a matter of personal view, the Court has twice rebuffed attempts to strip the Amendment from the ballot—both times unanimously. History bears testimony that by such quiet acts of duty is the rule of law maintained.

9. The Ballot Board's act here strays from this path of adherence to official duty. Secretary LaRose, who chairs the Board and who himself drafted and introduced the defective ballot language, has positioned himself as one of the Amendment's most vocal opponents. And during the meeting itself, Board Member and State Senator Theresa Gavarone used her platform to launch a sweeping attack on the Amendment's substance, twice calling it an "abomination." Then, in defiance of their mandatory duty under the Ohio Constitution, the majority of the Ballot Board's members adopted politicized, deceptive language for the Amendment, exploiting their authority in an attempt to undermine a measure they oppose. The Board thereby failed to execute a mandatory duty. The Ohio Constitution does not countenance such abuses of power. Neither should this Court.

10. The Amendment's text is direct, clear, and concise—and by definition accurate. The adopted ballot language is anything but. The ultimate question before the Court is accordingly quite simple: whether the people of Ohio can be trusted, on November 7, to read, interpret, and weigh the Amendment's text (or an accurate summation of it) for themselves, or whether they will instead be subjected to a naked attempt to mislead perpetrated by their own elected officials.

11. *Dobbs* entrusted the decision about whether and how to regulate abortion in Ohio to the people of Ohio. Whether by ordering the Ballot Board to place the full text of the Amendment on the ballot or by ordering the Ballot Board to prepare new text that cures the myriad flaws in the present ballot language, this Court should extend the people the same trust. It should grant the writ of mandamus.

#### **NATURE OF THE ACTION AND JURISDICTION**

12. This is an original action commenced under Article II, Section 1g, Article XVI, Section 1, and Article IV, Section 2(B)(1)(b) of the Ohio Constitution; and Chapter 2731 of the Ohio Revised Code.



13. The ballot language adopted by the Ohio Ballot Board to describe the Amendment is unlawful. Because this language is a root-and-branch effort to mislead voters, it is incurably tainted in its entirety. Accordingly, Relators seek a writ of mandamus directing Respondents the Ballot Board and its members, including Secretary LaRose, to replace the adopted ballot language with the full text of the Amendment itself. In the alternative, Relators seek a writ of mandamus directing Respondents to adopt lawful ballot language.

14. This Court has jurisdiction over this action under Article IV, Section 2(B)(1)(b), which gives the Court original jurisdiction in mandamus actions, and under Article II, Section 1g and Article XVI, Section 1, which give the Court original and exclusive jurisdiction in all cases “challenging the adoption or submission of a proposed constitutional amendment to the electors.”

15. Relators affirmatively allege that they have acted with the utmost diligence, that there has been no unreasonable delay or lapse of time in asserting their rights, and that there is no prejudice to Respondents. Specifically, the Ballot Board adopted the ballot language on the afternoon of Thursday, August 24, 2023, and this action is being filed on Monday, August 28, just two business days later. It is also filed more than 64 days before the November 7, 2023, general election, in accordance with Article XVI, Section 1 of the Ohio Constitution.

16. Because this action is being filed fewer than 90 days before November 7, it is an expedited election case subject to the schedule set out in Supreme Court Rule of Practice 12.08.

### **PARTIES**

17. Relator Ohioans United for Reproductive Rights is an Ohio non-profit corporation operating under Section 501(c)(4) of the Internal Revenue Code. Ohioans United for Reproductive Rights is a coalition of statewide reproductive health, rights, and justice organizations working to ensure that the citizens of Ohio, not the government, have control over reproductive decisions. Ohioans United for Reproductive Rights is the entity created by this coalition to advocate for

passage of the Amendment.

18. Ohioans United for Reproductive Rights proposed ballot language prior to the Ballot Board's August 24 meeting, but the Ballot Board did not adopt its proposed language. Instead, the Ballot Board adopted language drafted and introduced by Secretary LaRose.

19. Ohioans United for Reproductive Rights is injured by the adopted ballot language because it is incomplete, inaccurate, and misleading.

20. As a consequence of the incomplete, inaccurate, and misleading ballot language, Ohioans United for Reproductive Rights will have to expend additional resources to educate voters about the Amendment's scope and effects in connection with its efforts to encourage voters to support the Amendment.

21. Relators David Hackney, Nancy Kramer, Jennifer McNally, Ebony Speakes-Hall, and Aziza Wahby are residents and qualified electors of the State of Ohio who support the Amendment and intend to vote and organize in its favor. They are each members of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety. *See* Verification of Donald J. McTigue ("McTigue Verification"), Exs. 1–5.

22. Relators David Hackney, Nancy Kramer, Jennifer McNally, Ebony Speakes-Hall, and Aziza Wahby will be injured if the Amendment is submitted to the people using the adopted ballot language, both as Ohio electors and taxpayers and as Ohio citizens who are organizing in favor of the Amendment. *Id.*

23. Respondents are the Ohio Ballot Board and its five members: Secretary of State Frank LaRose (the Chair), Senator Theresa Gavarone, Senator Paula Hicks-Hudson, William Morgan, and Representative Elliot Forhan. The Ohio Ballot Board is the body charged by law with

prescribing the ballot language for constitutional amendments submitted to the electors.

24. Respondent Secretary LaRose is also named in his official capacity as Ohio Secretary of State. In that role, he is Ohio's chief election officer, R.C. 3501.04, and is charged by law with determining the forms of ballot and prescribing the ballot title for constitutional amendments submitted to the electors, R.C. 3501.05.

### **LEGAL FRAMEWORK**

25. The Ohio Constitution and the Revised Code establish the procedural and substantive requirements for ballot language for proposed constitutional amendments.

26. Article II, Section 1g of the Ohio Constitution provides that the ballot language for citizen-initiated constitutional amendments "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."

27. Article XVI, Section 1 provides that "the ballot language for . . . proposed amendments shall be prescribed by a majority of the Ohio ballot board." It further provides that the ballot language "shall properly identify the substance of the proposal to be voted upon," but that the ballot "need not contain the full text nor a condensed text of the proposal." Ballot language "shall not be held invalid unless it is such as to mislead, deceive, or defraud the voters."

28. Similarly, Section 3505.062(B) of the Revised Code requires the Ballot Board to "[p]rescribe 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." And Section 3505.06(E) provides that the "questions and issues ballot need not contain the full text of the proposal to be voted upon." In lieu of the full text, a "condensed text that will properly describe the question, issue, or an amendment" may be used. R.C. 3505.06(E).

## FACTS

### **A. Ohio citizens proposed an amendment to the Ohio Constitution entitled “The Right to Reproductive Freedom with Protections for Health and Safety.”**

29. On February 21, 2023, Ohio citizens submitted to Attorney General Dave Yost an initiative petition including the text of a proposed constitutional amendment entitled “The Right to Reproductive Freedom with Protections for Health and Safety,” a summary, and part-petitions bearing the signatures of over a thousand qualified electors. McTigue Verification Ex. 6.

30. The full text of the Amendment reads as follows:

Be it Resolved by the People of the State of Ohio that Article I of the Ohio Constitution is amended to add the following Section:

Article I, Section 22. The Right to Reproductive Freedom with Protections for Health and Safety

A. Every individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on:

1. contraception;
2. fertility treatment;
3. continuing one’s own pregnancy;
4. miscarriage care; and
5. abortion.

B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:

1. An individual’s voluntary exercise of this right or
2. A person or entity that assists an individual exercising this right,

unless the State demonstrates that it is using the least restrictive means to advance the pregnant individual’s health in accordance with widely accepted and evidence-based standards of care.

However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient’s treating physician it is necessary to protect the pregnant patient’s life or health.

C. As used in this Section:

1. “Fetal viability” means “the point in a pregnancy when, in the professional judgment of the pregnant patient’s treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis.”
2. “State” includes any governmental entity and any political subdivision.

D. This Section is self-executing.

McTigue Verification Ex. 6.

31. The petition summary reads as follows:

The Amendment would amend Article I of the Ohio Constitution by adding Section 22, titled “The Right to Reproductive Freedom with Protections for Health and Safety.”

The Amendment provides that:

1. Every individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion.
2. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care.
3. However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient’s treating physician it is necessary to protect the pregnant patient’s life or health.
4. As used in this Section, “Fetal viability” means “the point in a pregnancy when, in the professional judgment of the pregnant patient’s treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis”; and “State” includes any governmental entity and political subdivision.
5. This Section is self-executing.

McTigue Verification Ex. 6. The summary is formatted differently from the Amendment, but the text of the summary and Amendment are substantively identical.

**B. Attorney General Yost, the Ballot Board, and this Court all reviewed the Amendment’s text and allowed the petition to proceed.**

32. The Amendment petition’s submission triggered the Attorney General’s duty to transmit the part-petitions to the appropriate county boards of elections for signature verification, and to “conduct an examination of the summary.” R.C. 3519.01(A). On March 2, by letter, Attorney General Yost confirmed that the county boards of elections had verified “at least 1,000 signatures” and that he had determined that the summary was “a fair and truthful statement of the proposed constitutional amendment.” McTigue Verification Ex. 7; *see* R.C. 3519.01(A).

33. Attorney General Yost reached that determination despite his personal views opposing abortion. He explained that:

My personal views on abortion are publicly known. In this matter, I am constrained by duty to rule upon a narrow question, not to use the authority of my office to effect a good policy, or to impede a bad one. A duty that never compels an unpleasant duty or act is not duty, but self-service, the opposite of public service—government by solipsism. That way lies chaos, and ultimately the breakdown of self-governance.

McTigue Verification Ex. 7.

34. The Attorney General’s determination, in turn, triggered the Ballot Board’s duty to determine whether the Petition contained “only one proposed . . . constitutional amendment so as to enable the voters to vote on a proposal separately.” R.C. 3505.062(A); *see* Ohio Constitution, Article II, Section 1g. On March 13, by letter, the Board indicated that it had so determined.

McTigue Verification Ex. 8.

35. On March 20, two relators filed an original action challenging the Amendment in this Court. *See State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023). That action sought mandamus against the Ballot Board, based on its determination that the Amendment was a single amendment, on the theory that in fact it was multiple amendments. *Id.* ¶ 20.

36. On June 1, this Court declined to issue the writ. While the Justices reached that result by two different paths, they were unanimous in the judgment. *See id.* ¶ 24 (*per curiam* lead opinion); *id.* ¶¶ 37, 39 (Kennedy, C.J., joined by DeWine and Deters, J.J., concurring in judgment only); *id.* at 12 (noting that Justice Fischer concurred in the judgment without joining either opinion).

37. In rejecting the *DeBlase* relators’ argument, the lead opinion interpreted several parts of the Amendment’s text in a manner pertinent to this case. First, the lead opinion explained that “the first provision of the proposed amendment specifies a general purpose (protecting an individual’s *right to make reproductive decisions*) and then specifies five types of reproductive decisions that *would be covered by the amendment.*” *Id.* ¶ 22 (*per curiam* lead opinion) (emphasis

added). Second, the lead opinion explained that “Section B prohibits *the state* from interfering with the exercise of the rights identified in Section A.” *Id.* (emphasis added).

38. Chief Justice Kennedy, in her concurrence, emphasized that “the ultimate decision on what the Constitution should say and how it should say it belongs to the people in exercising their right to ratify or reject an amendment at the ballot box.” *Id.* ¶ 39 (Kennedy, C.J., concurring in judgment only).

**C. Over 700,000 Ohioans signed the petition—which included the full text of the Amendment—qualifying the Amendment for the November ballot.**

39. On July 5, the petition committee submitted the Amendment petition, which bore more than 700,000 signatures of Ohioans, to the Secretary of State’s office. McTigue Verification Ex. 9. On July 25, the Secretary’s office certified that the petitioners had submitted over 495,000 valid signatures from 55 counties, far more than the 413,487 signatures from 44 counties required by Article II. McTigue Verification Ex. 10. Accordingly, the Amendment qualified for the November 7, 2023, general election ballot. *See* Ohio Constitution, Art. II, §§ 1a, 1g.

40. Notably, in accordance with R.C. 3519.05, each part-petition bore both the summary and the full text of the Amendment. Thus, each of the 700,000-plus Ohioans who signed the petition had the opportunity to review the full text—and the substantively identical summary—before deciding whether to give the Amendment their support.

41. After the Amendment qualified for the ballot, its opponents again sued, asking this Court to remove it from the ballot based on a purported violation of R.C. 3519.01(A). *See Giroux v. Committee Representing Petitioners*, Slip Opinion No. 2023-Ohio-2786, 2023 WL 5163291 (Aug. 11, 2023) (*per curiam*). The Court for a second time unanimously rejected a challenge to the Amendment.

**D. Ohioans United for Reproductive Rights proposed that using the Amendment’s full text as the ballot language would minimize the risk of bias and controversy.**

42. Some ballot measures are long and complicated. Their full text cannot reasonably be printed on the ballot. Condensed ballot language is therefore required. Not so for the Amendment at issue here. It is only 194 words long.

43. Accordingly, Relator Ohioans United for Reproductive Rights proposed, in an August 21 letter from counsel, that the Ballot Board simply adopt the full text of the Amendment as the ballot language. *McTigue Verification Ex. 11*. The letter explained that “when the Board prescribes condensed language, litigation has often resulted.” *Id.* Because “the full text of the proposed amendment is clear, concise, and direct,” using it as the ballot language would avoid any “dispute about whether legal standards have been satisfied or whether the condensed text misleads, deceives, or defrauds voters.” *Id.* And, most crucially, using the full text would allow voters to “see for themselves the language they are being asked to approve” and to “make a free and independent decision on this fundamental question.” *Id.*

44. Ohioans United for Reproductive Rights therefore submitted proposed ballot language as follows:



**Issue 1**

**To Establish the Right to Reproductive Freedom with Protections for Health and Safety**

**Proposed Constitutional Amendment**

**Proposed by Initiative Petition**

**To add a new Section 22 to Article I of the Constitution of the State of Ohio, The Right to Reproductive Freedom with Protections for Health and Safety**

**A majority yes vote is necessary for the amendment to pass.**

If adopted, the Amendment would provide that:

- A. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on:
1. contraception;
  2. fertility treatment;
  3. continuing one's own pregnancy;
  4. miscarriage care; and
  5. abortion.

- B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:
1. An individual's voluntary exercise of this right or
  2. A person or entity that assists an individual exercising this right,

unless the State demonstrates that it is using the least restrictive means to advance the pregnant individual's health in accordance with widely accepted and evidence-based standards of care.

However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.

- C. As used in this Section:
1. "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures." This is determined on a case-by-case basis.
  2. "State" includes any governmental entity and any political subdivision.
- D. This Section is self-executing.

McTigue Verification Ex. 11.

**E. Secretary LaRose drafted and proposed verbose, misleading, and prejudicial ballot language amounting to a persuasive argument against the Amendment, which the Ballot Board narrowly voted to adopt.**

45. The Ballot Board met to prescribe and certify the ballot language for the Amendment on August 24.

46. At the outset, the Ballot Board's Secretary advised the Board of its substantive obligations. He explained that the ballot language "must properly identify the substance of the proposal to be voted on," that it "may contain the full text or a condensed version of the proposal," that "[i]f a condensed version of the proposal is used, the ballot language must not omit substance of the proposal that is material," and that "if the proposed amendment is condensed, the resulting language must not result in or imply persuasive argument." *McTigue Verification Ex. 12*, at 12:10–13:2.

47. Secretary LaRose then proposed draft ballot language for the Amendment, which read as follows:

**Issue 1**

**A Self-Executing Amendment Relating to Abortion and Other Reproductive Decisions**

**Proposed Constitutional Amendment**

**Proposed by Initiative Petition**

**To enact Section 22 of Article I of the Constitution of the State of Ohio**

**A majority yes vote is necessary for the amendment to pass.**

The proposed amendment would:

- Establish in the Constitution of the State of Ohio an individual right to one's own reproductive medical treatment, including but not limited to abortion;
- Create legal protections for any person or entity that assists a person with receiving reproductive medical treatment, including but not limited to abortion;
- Prohibit the citizens of the State of Ohio from directly or indirectly burdening, penalizing, or prohibiting abortion before an unborn child is determined to be viable, unless the State demonstrates that it is using the least restrictive means;
- Grant a pregnant woman's treating physician the authority to determine, on a case-by-case basis, whether an unborn child is viable;
- Only allow the citizens of the State of Ohio to prohibit an abortion after an unborn child is determined by a pregnant woman's treating physician to be viable and only if the physician does not consider the abortion necessary to protect the pregnant woman's life or health; and
- Always allow an unborn child to be aborted at any stage of pregnancy, regardless of viability if, in the treating physician's determination, the abortion is necessary to protect the pregnant woman's life or health.

If passed, the amendment will become effective 30 days after the election.

McTigue Verification Ex. 13.

48. This purportedly "condensed" summary of the Amendment is not condensed at all: It contained *more* words (203, to be exact) than the substantive language of *the Amendment itself* (which contains only 194 words).<sup>1</sup>

49. And as other Ballot Board members soon pointed out, Secretary LaRose's proposed language misrepresented many aspects of the Amendment in an improper attempt to persuade voters to vote against it.

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<sup>1</sup> These word counts exclude the mandatory prefatory titles in both texts and formatting, *i.e.*, the bullets in the Ballot Board's language, and the equivalent section and subsection lettering and numbering in the Amendment.

50. In that sense, Secretary LaRose’s proposal was entirely consistent with his conduct leading up to the meeting. To name one example, in an interview with NBC4’s Colleen Marshall on August 20, Secretary LaRose called the Amendment a “dangerous anti-parent amendment.” NBC4 Columbus, Full Interview: Ohio Secretary of State Frank LaRose, at 3:03–06, YouTube (Aug. 20, 2023).<sup>2</sup> He then purported to quote a portion of the Amendment that—he claimed—would explicitly authorize medical procedures “regardless of age or regardless of parental involvement.” *Id.* at 6:52–56. When Ms. Marshall pointed out—correctly—that the Amendment “doesn’t have the word ‘parent’ in it,” Secretary LaRose responded only “mhm,” before changing the subject. *Id.* at 6:56–7:10.

51. After Secretary LaRose introduced his proposed ballot language, Board Member and State Senator Paula Hicks-Hudson moved to substitute the full text of the Amendment itself for the proposed language. Senator Hicks-Hudson explained that “the full text is clear. It’s concise and it’s direct.” McTigue Verification Ex. 12, at 15:12–13.

52. Speaking in support of Senator Hicks-Hudson’s motion, Board Member and State Representative Elliot Forhan argued that “[t]he ballot board should trust the people of Ohio and adopt the full text of the Amendment.” *Id.* at 16:16–19. Representative Forhan explained that “[t]he text is clear, concise, and direct. It’s what hundreds of thousands of Ohioans already reviewed when they signed the petitions to put the measure on the ballot.” *Id.* at 16:20–17:2.

53. In contrast, Representative Forhan continued, Secretary LaRose’s proposal is “rife with misleading and defective language.” Representative Forhan then identified several points that, in his view, “exemplify [] the problems.” *Id.* at 17:4–8.

54. Representative Forhan first pointed out that while the Amendment guarantees “the

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<sup>2</sup> Available at <https://www.youtube.com/watch?v=mEbJodAb7tM>.

right to make [] reproductive decisions,” the proposed language “misleadingly transforms this into a right to ‘Reproductive medical treatment.’ That’s not what the measure says. It doesn’t require the State of Ohio to provide medical treatment itself.” *Id.* at 17:9–15.

55. Second, Representative Forhan noted that “the proposed language doesn’t identify four of the five kinds of reproductive decisions addressed in the measure . . . contraception, fertility treatment, continuing one’s own pregnancy, and miscarriage care.” *Id.* at 17:16–20.

56. Third, Representative Forhan pointed out that the Amendment “expressly restricts the state from burdening, penalizing, prohibiting, interfering with, or discriminating against an individual’s reproductive decision rights, yet the proposed language falsely says that it restricts the *citizens* of the State.” *Id.* at 17:21–18:5 (emphasis added). Representative Forhan explained that “[t]he measure itself defines the state to include any government entity and any political subdivision.” *Id.* at 18:6–8.

57. Fourth, Representative Forhan remarked the Amendment “uses the medically correct term, ‘fetus,’ but the proposed language substitutes the phrase . . . ‘unborn child,’ which reflects a personal viewpoint.” *Id.* at 18:9–13.

58. Fifth, Representative Forhan pointed out that “the ballot language is longer than the amendment it purports to summarize. It is needlessly repetitive . . . it’s an attempt to confuse voters.” *Id.* at 18:14–18.

59. Representative Forhan concluded that these defects “render the language beyond repair” and that thus the proposed language “should be replaced with the full text of the amendment itself.” *Id.* at 18:19–21.

60. The Ballot Board rejected Senator Hicks-Hudson’s motion to adopt the full text of the Amendment as the ballot language by a 3-to-2 vote. *Id.* at 21:15–22:7.

61. Board Member and State Senator Theresa Gavarone then spoke in support of Secretary LaRose’s proposed ballot language. But her remarks scarcely addressed the matter at hand: whether the ballot language satisfied the applicable legal standards. Instead, Senator Gavarone, based on her personal views, lobbed substantive attacks at the Amendment itself. For example, she repeatedly called the Amendment “an abomination.” *See, e.g., id.* at 24:11–12. She (inaccurately) claimed that by adopting the Amendment, “Ohio citizens will allow an abortionist, a person who profits from performing an abortion, to be the sole determiner if the ‘health of the mother’ is at risk.” *Id.* at 23:2–6. And she asserted that the Amendment includes an “assault on parental rights.” *Id.* at 22:10–25:8.

62. Immediately after Senator Gavarone’s charged remarks, Secretary LaRose noted that “he agree[d] with her words” but reminded the Board that “we’re not here to debate the merits of this.” *Id.* at 25:9–12.

63. Senator Hicks-Hudson then moved to correct several of the defects in the ballot language that Representative Forhan had previously identified. That motion failed by another 3-to-2 vote. *Id.* at 17:15–20:18.

64. Speaking in support of his proposed language, Secretary LaRose explained that he had himself “worked extensively on drafting” it, and that “the written text of a 250-plus word Constitutional Amendment creates what I consider a number of very substantial changes to the Ohio Constitution. We tried to summarize that the best way we can and make it a clear statement here in the ballot language of what this amendment would actually do.” *Id.* at 30:13–31:3.<sup>3</sup>

65. Secretary LaRose did not explain why he had needed to work “extensively” to draft

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<sup>3</sup> To arrive at his 250-word count, Secretary LaRose presumably included not only the Amendment’s words, but also all the words in the constitutionally mandated prefatory title—which are not a part of the Amendment—as well as the section and subsection numbering and lettering, which are not “words.” As noted above, the actual number of words in the Amendment is 194—which is nine words *fewer* than the ballot language Secretary LaRose proposed.

ballot language for the Amendment. Nor did he respond to any of Representative Forhan’s or Senator Hicks-Hudson’s substantive critiques of the ballot language.

66. The Ballot Board voted 3-to-2 to adopt the language introduced by Secretary LaRose. *Id.* at 31:9–32:3.

67. Just a few hours after chairing a meeting called for the purpose of adopting ballot language that would not mislead voters about the substance of the Amendment, Secretary LaRose tweeted factually misleading information about the substance of the Amendment: “The radical left wants to amend Ohio’s constitution to allow abortion on demand up to the moment of birth.” *McTigue Verification Ex. 14*; *but see McTigue Verification Ex. 6* (providing that the State may prohibit abortion after fetal viability, with an exception only where “necessary to protect the pregnant patient’s life or health”).

**COUNT I – ARTICLE XVI AND MANDAMUS**  
**Against the Ballot Board and its Members in their official capacities**

68. Relators restate and incorporate by reference all prior paragraphs as though fully set forth in this paragraph.

69. The ballot language prescribed by the Ballot Board at its August 24 meeting violates the Constitution and the laws of the State of Ohio.

70. Under Article II, Section 1g and Article XVI, Section 1, of the Constitution, and Section 3505.062(B) of the Revised Code, the ballot language must “properly identify the substance of the proposal to be voted upon.” And Article XVI specifies that the ballot language may not be “such as to mislead, deceive, or defraud the voters.”

71. “When assessing ballot language,” this Court “typically examine[s] whether the language tells voters what they are being asked to vote on and whether the language impermissibly amounts to persuasive argument for or against the issue.” *State ex rel. One Pers. One Vote v. Ohio*

*Ballot Bd.*, No. 2023-0672, 2023-Ohio-1928, 2023 WL 3939006, ¶ 8 (June 13, 2023) (citing *State ex rel. Bailey v. Celebrezze*, 67 Ohio St.2d 516, 519, 426 N.E.2d 493 (1981)). If that examination establishes that “there are defects in ballot language,” the Court “examine[s] the defects as a whole and determine whether their cumulative effect violates the constitutional standard.” *Id.* (citing *Bailey*, 67 Ohio St.2d at 519).

72. Additionally, this Court has long held that “[ballot language] ought to be free from any misleading tendency, whether of amplification, or omission.” *Markus v. Trumbull Cnty. Bd. of Elections*, 22 Ohio St.2d 197, 203, 259 N.E.2d 501 (1970). And ballot language that fails to “convey an intelligent idea of the scope and import of the amendment” is invalid. *Id.* at 202–03.

73. The ballot language at issue does not “tell[] voters what they are being asked to vote on.” *Id.*

74. To start, the ballot language adopted by the Ballot Board at its August 24 meeting is factually inaccurate in several ways.

75. First, the ballot language incorrectly states that the Amendment would restrict *private* rather than *state* action. The Amendment would restrict “the State”—defined in the Amendment itself as “any governmental entity and any political subdivision”—from burdening, penalizing, prohibiting, interfering with, or discriminating against Ohioans’ exercise of their right to make reproductive decisions and from prohibiting abortion under certain circumstances. As three Justices of this Court previously explained in *DeBlase*, “Section B [of the Amendment] prohibits *the state* from interfering with the exercise of the rights identified in Section A.” Slip Opinion No. 2023-Ohio-1823, ¶ 22 (*per curiam* lead opinion) (emphasis added). The ballot language, in contrast, includes two bullet points stating that the Amendment would impose that restriction on “the *citizens* of the State of Ohio,” which makes it sound as though the Amendment



would constrain private parties.

76. Second, the ballot language mischaracterizes the core right that the Amendment bestows on Ohio's citizens. Although the Amendment would give Ohioans the "right to make and carry out one's own reproductive *decisions*" (whether medical or not), the ballot language distorts this into a right to "reproductive *medical treatment*." The ballot language's phrase (which is repeated twice) falsely suggests that the Amendment would create a right to medical treatment and require the State of Ohio to *provide* individuals access to any such treatment that they choose. The Amendment *restricts* government intrusion on private decisions. The ballot language suggests *expanded* State-administered healthcare.

77. Third, the ballot language flips an individual's agency to make their own reproductive decisions on its head. The Amendment explicitly confers the "right to make and carry out one's own reproductive decisions, including . . . *continuing* one's own pregnancy." And while the Amendment provides that the State may not *prohibit* abortions "if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health," it in no way says what the ballot language states: that "[t]he proposed amendment would . . . [*a*lways allow an unborn child to be aborted at any stage of pregnancy, regardless of viability if, in the treating physician's determination, the abortion is necessary to protect the pregnant woman's life or health." Not only is this language confusing and misleading—there is no specific actor associated with the verb phrase "always allow"—it is wrong on its face: Under the Amendment, the State *could not* allow an abortion to occur over the pregnant patient's objections, even if the pregnant patient's physician determined that the abortion was prudent—because that pregnant person would have an individual right to decide to "continue [their] own pregnancy." The ballot language, though, states that such an abortion is always allowed at the treating physician's

say-so. The ballot language is thus demonstrably false.

78. The ballot language is not only inaccurate, but also misleadingly incomplete, such that it fails to properly convey “the scope and import” of the Amendment. The Court has long recognized that ballot language marred by material omissions is defective. *State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St.3d 257, 2012-Ohio-419, 978 N.E.2d 119, ¶¶ 27–32.

79. Most glaringly, the ballot language omits all but one of the Amendment’s specifically enumerated protections. The Amendment would establish that “[e]very individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion.” *See also DeBlase*, Slip Opinion No. 2023-Ohio-1823, ¶ 22 (lead opinion) (explaining that “the first provision of the proposed amendment specifies a general purpose (protecting an individual’s *right to make reproductive decisions*) and then specifies five types of reproductive decisions that *would be covered by the amendment*” (emphasis added)). But the ballot language names *only* abortion, doing so seven times, suggesting that what “other reproductive medical treatment” the Amendment covers is undefined and entirely open to interpretation. Not so. The Amendment expressly extends to reproductive decisions concerning contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion.

80. Similarly, the ballot language omits an exception to the Amendment’s prohibition on state action. The Amendment provides that “[t]he State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against” an individual’s voluntary exercise of their right to reproductive freedom or a person or entity that assists an individual exercising that right “*unless* the State demonstrates that it is using the least restrictive means to advance the pregnant individual’s health in accordance with widely accepted and evidence-based standards of

care.” The ballot language, however, leaves out the exception. Although it uses the phrase “least restrictive means,” it does not say *what* the least restrictive means are meant to advance or protect. Only partially stating the relevant legal standard is misleading. Without specifying that the “least restrictive means” must relate to the protection of the pregnant individual’s health, the language is so unclear as to be meaningless.

81. Finally, the ballot language does not include the definition of “fetal viability.” The Amendment provides a clear definition for physicians to apply—“[f]etal viability means the point in a pregnancy when, in the professional judgment of the pregnant patient’s treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures.” Although the Amendment’s definition does further explain that fetal viability “is determined on a case-by-case basis,” the Amendment does not grant physicians untrammelled discretion; they must make that determination in particular cases based on the standard the Amendment sets forth. The ballot language, however, states that the Amendment would “[g]rant a pregnant woman’s treating physician the authority to determine, on a case-by-case basis, whether an unborn child is viable.” By omitting the definition of “fetal viability,” the ballot language thus falsely suggests that physicians have unfettered discretion to make that determination.

82. In addition to failing to convey *what* voters are being asked to vote on, the ballot language “impermissibly amounts to persuasive argument for or against the issue.” *One Pers. One Vote*, 2023-Ohio-1928 ¶ 8.

83. To that end, the inaccuracies and material omissions articulated above suggest to Ohio voters that the Amendment would (i) restrict their freedom rather than expand it, (ii) require the State to provide individuals the medical treatments of their choice instead of simply prohibiting the State from interfering with reproductive decisions, and (iii) give complete discretion to treating

physicians without leaving their patient with the right to continue their own pregnancy or the State with any recourse to advance a pregnant patient's health. All those characterizations are false and misleading, and all are aimed at persuading voters to vote against the Amendment.

84. But the improperly persuasive arguments do not stop there. The ballot language's careful and strategic substitution of new verbiage to replace and alter the Amendment's actual text further serves to sway voters against the Amendment.

85. For starters, the Amendment uses the term "unborn child" four times, though it appears nowhere in the measure. That fraught term is in stark contrast to the neutral, accurate, and scientifically accepted terminology that the Amendment itself uses and defines. The ballot language thus unnecessarily introduces an ethical judgment—at what stage of development a zygote, embryo, or fetus becomes a "child"—which is beyond the scope of the measure and about which Ohioans profoundly disagree.

86. Less obviously but just as importantly, the ballot language uses words like "only" and "always" to play up contrasts where none exists and warps negative language into positive language to suggest the State's intrusion into private affairs. For example, the ballot language provides that the proposed Amendment would "[o]nly allow the citizens of the State of Ohio to prohibit an abortion after an unborn child is determined by a pregnant woman's treating physician to be viable and only if the physician does not consider the abortion necessary to protect the pregnant woman's life or health." This language is factually inaccurate for the reasons stated above. It is convoluted and confusing. And by using the word "only" (twice), the language suggests that the Amendment imposes unreasonably strict limits on state authority. By using such categorical terms, the ballot language aims to persuade against the Amendment.

87. Finally, the ballot language's length and the context in which it was drafted confirm

that the above defects are no accident but are, instead, part of a deliberate attempt to mislead and sway voters.

88. The cumulative effect of the foregoing defects is to render the ballot language adopted on August 24 unlawful under Article II, Section 1g; Article XVI; Revised Code Section 3505.062(B); and this Court's jurisprudence.

89. The most appropriate remedy for these defects is a writ of mandamus compelling the Ballot Board to prescribe the full text of the Amendment as the ballot language. While Article XVI provides that the ballot does not *invariably* need to contain a proposal's full text, the circumstances make that remedy the only one that would fully guarantee ballot language that satisfies the standards set out in Article XVI. Every bullet point in the Ballot Board's prescribed language is defective, making line-by-line repair very difficult. The Ballot Board majority has made its profound animus toward the Amendment clear, and very limited time remains to ensure that constitutionally adequate ballot language is in place for the election. Relators acknowledge that this Court has not previously ordered the Ballot Board to adopt the full text of a measure as the ballot language. But nothing in the Constitution precludes that remedy, and the circumstances render it appropriate here.

90. Alternatively, if the Court declines to grant the foregoing remedy, it should issue a writ of mandamus identifying, in detail, each of the prescribed language's defects and specifying the changes necessary to bring it into compliance with the Constitution. Relators set out those changes in detail below, in the Prayer for Relief. If it elects that remedy, the Court should also retain jurisdiction so that it can ensure the Ballot Board's full compliance.

91. This Court will grant a writ of mandamus when a relator establishes (i) a clear legal right to the requested relief, (ii) a clear legal duty on the part of the respondent to provide it, and

(iii) the lack of an adequate remedy in the ordinary course of law.

92. Relators have a clear legal right to the requested relief because the ballot language prescribed by the Ballot Board at its August 24 meeting violates the express requirements of the above provisions of the Ohio Constitution and the Revised Code.

93. Respondents have a clear legal duty to provide the requested relief because they have a mandatory duty under Article XVI and Section 3505.062(B) to prescribe lawful ballot language. Thus far, they have abused their discretion and acted in clear disregard of applicable law and their legal duty.

94. Relators lack an adequate remedy at law because this Court has original and exclusive jurisdiction of the subject matter of the action and has long treated mandamus as the only available remedy when an elector seeks to challenge the form in which a ballot issue is to be submitted, and because the election is rapidly approaching.

#### **PRAYER FOR RELIEF**

Accordingly, Relators respectfully request that this Court:

A. Issue a peremptory writ of mandamus directing Respondent Secretary LaRose to reconvene the Ballot Board and further directing Respondent the Ballot Board to prescribe that the Amendment's full text be used as the ballot language.

B. In the alternative, issue a peremptory writ of mandamus directing Respondent Secretary LaRose to reconvene the Ballot Board and further directing Respondent the Ballot Board to prescribe lawful ballot language, as follows:

- i. The ballot language must accurately state whose action the Amendment regulates—the State's—and replace all references to “the citizens of the State of Ohio” with “the State” or “the government.”
- ii. The ballot language must accurately describe the right that the Amendment

confers and replace all references to “right to one’s own reproductive medical treatment” with “right to make and carry out one’s own reproductive decisions.”

- iii. The ballot language must not state or imply that the State, a treating physician, or anyone else has the authority to allow an abortion over the pregnant person’s objections. Accordingly, the final bullet point must be removed in full.
- iv. The ballot language must accurately describe the purpose and scope of the Amendment and expressly indicate that the Amendment establishes the right to make and carry out one’s own reproductive decisions, including by naming each of the five enumerated categories of decision.
- v. The ballot language must describe the “least restrictive means” exception fully, including the language or concept: “to advance the pregnant individual’s health in accordance with widely accepted and evidence-based standards of care.”
- vi. The ballot language must accurately describe the standard by which treating physicians will determine fetal viability.
- vii. The ballot language must avoid any inaccuracies, including by implication.
- viii. The ballot language must refrain from using any terms whose use impermissibly amounts to persuasive argument for or against the issue, including “unborn child.”
- ix. The ballot language must avoid using absolute terms when they do not apply, including the current use of “Only” and “Always.”

x. The ballot language must avoid distorting the Amendment's prohibitions into obligations.

C. In the second alternative, if the Court determines that it requires further evidence or briefing, issue an alternative writ of mandamus and order an expedited briefing schedule on the same;

D. Retain jurisdiction of this action pursuant to Revised Code Section 2731.16, and render any and all further orders that the Court may from time to time deem appropriate, including, but not limited to, determining the validity of any new ballot language prescribed by the Ohio Ballot Board; and

E. Grant such other or further relief the Court deems appropriate, including, but not limited to, an award of Relators' reasonable costs.

Respectfully submitted,

/s/ Donald J. McTigue  
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\*\* Applications for admission *pro hac vice*  
forthcoming

*Counsel for Relators*

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IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* Ohioans United for  
Reproductive Rights, *et al.*,

Relators,

v.

Ohio Ballot Board, *et al.*,

Respondents.

Case No. \_\_\_\_\_

Original Action in Mandamus Pursuant to  
Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case  
Pursuant to Supreme Court Rule of  
Practice 12.08

Peremptory and Alternative Writs  
Requested

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VERIFICATION OF DONALD J. McTIGUE

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Franklin County

/ss

State of Ohio


I, Donald J. McTigue, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this affidavit, and further state as follows:

1. I am an attorney at law licensed to practice in the State of Ohio and I serve as legal counsel to Relators in this action.
2. Exhibit 1 is a true and correct copy of the Affidavit of Relator David Hackney.
3. Exhibit 2 is a true and correct copy of the Affidavit of Relator Nancy Kramer.
4. Exhibit 3 is a true and correct copy of the Affidavit of Relator Jennifer McNally.
5. Exhibit 4 is a true and correct copy of the Affidavit of Relator Ebony Speakes-Hall.
6. Exhibit 5 is a true and correct copy of the Affidavit of Relator Aziza Wahby.
7. Exhibit 6 is a true and correct copy of a petition to the Ohio Attorney General proposing a summary for a constitutional amendment entitled "The Right to Reproductive Freedom with Protections for Health and Safety."

8. Exhibit 7 is a true and correct copy of Ohio Attorney General Dave Yost's March 2, 2023, letter certifying the petition summary for The Right to Reproductive Freedom with Protections for Health and Safety Amendment to be "fair and truthful."
9. Exhibit 8 is a true and correct copy of the Ohio Ballot Board's March 13, 2023, letter certifying that the initiative petition proposing The Right to Reproductive Freedom with Protections for Health and Safety Amendment contained a single constitutional amendment.
10. Exhibit 9 is a true and correct copy of a July 6, 2023, article by Susan Tebben in the Ohio Capital Journal, entitled "Ohio abortion rights supporters submit signatures, gunning for November ballot."
11. Exhibit 10 is a true and correct copy of Ohio Secretary of State Frank LaRose's July 25, 2023, letter certifying The Right to Reproductive Freedom with Protections for Health and Safety Amendment's qualification for the November 7, 2023, general election ballot.
12. Exhibit 11 is a true and correct copy of an August 21, 2023, letter sent by the undersigned on behalf of Ohioans United for Reproductive Rights to each member of the Ohio Ballot Board, proposing ballot language for The Right to Reproductive Freedom with Protections for Health and Safety Amendment.
13. Exhibit 12 is a true and correct transcript of the Ohio Ballot Board's August 24, 2023, meeting.
14. Exhibit 13 is a true and correct copy of the ballot language for The Right to Reproductive Freedom with Protections for Health and Safety Amendment, as prescribed by the Ohio Ballot Board on August 24, 2023.
15. Exhibit 14 is a true and correct copy of a tweet posted by Frank LaRose (@FrankLaRose) at 7:15 pm on August 24, 2023.
16. I have read the Complaint filed in this action and affirm that the factual allegations contained therein are true and accurate.

  
 \_\_\_\_\_  
 Donald J. McTigue

Sworn to before me this 28th day of August, 2023.

  
 \_\_\_\_\_  
 Notary Public



Patricia Lee Roederer  
 Attorney at Law  
 Notary Public, State of Ohio  
 My Commission Has No Expiration Date  
 Sec 147.03 O.R.C.

My commission expires Does Not Expire

# Exhibit 1

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**IN THE SUPREME COURT OF OHIO**

**State of Ohio *ex rel.* Ohioans United for  
Reproductive Rights, *et al.*,**

**Relators,**

**v.**

**Ohio Ballot Board, *et al.*,**

**Respondents.**

**Case No.** \_\_\_\_\_

Original Action in Mandamus Pursuant to  
Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case Pursuant to  
Supreme Court Rule of Practice 12.08

Peremptory and Alternative Writs  
Requested

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**AFFIDAVIT OF RELATOR DAVID HACKNEY**

---

I, David Hackney, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge, and further state as follows:

1. I reside at 2918 Huntington Road, Cleveland, in the State of Ohio.
2. I am qualified to vote in the State of Ohio and am registered to vote in Cuyahoga County, Ohio.
3. I am a member of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety.
4. I support the constitutional amendment proposed by Issue 1 that would establish the right to reproductive freedom with protections for health and safety.
5. I intend to vote for the constitutional amendment and to organize others to do the same.
6. The defective ballot language at issue in this case will undermine my efforts to organize electors to support the amendment by requiring additional work to educate them about the affected constitutional provisions.

*David Nicholas Hackney*

\_\_\_\_\_  
David Hackney

Sworn to before me this 27<sup>th</sup> day of August, 2023.

State of Florida      County of Miami

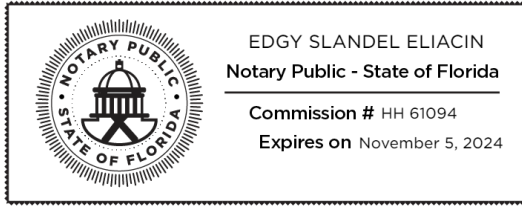
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Edgy Slandel Eliacin

Notary Public

by David Hackney produced Ohio drivers license

My commission expires 11/05/2024



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IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* Ohioans United for  
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Respondents.

Case No. \_\_\_\_\_

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Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case Pursuant to  
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Peremptory and Alternative Writs  
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AFFIDAVIT OF RELATOR NANCY KRAMER

I, Nancy Kramer, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge, and further state as follows:

1. I reside at 955 Urlin Avenue, Columbus, in the State of Ohio.
2. I am qualified to vote in the State of Ohio and am registered to vote in Franklin County, Ohio.
3. I am a member of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety.
4. I support the constitutional amendment proposed by Issue 1 that would establish the right to reproductive freedom with protections for health and safety.
5. I intend to vote for the constitutional amendment and to organize others to do the same.
6. The defective ballot language at issue in this case will undermine my efforts to organize electors to support the amendment by requiring additional work to educate them about the affected constitutional provisions.

*Nancy Kramer*

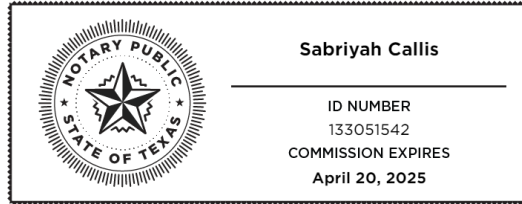
Nancy Kramer

State of Texas County of Harris

Sworn to before me this 27 th day of August, 2023. By Nancy Kramer.



\_\_\_\_\_  
Notary Public



My commission expires 04/20/2025

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# Exhibit 3

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IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* Ohioans United for  
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Respondents.

Case No. \_\_\_\_\_

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Constitution

Expedited Election Case Pursuant to  
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Requested

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AFFIDAVIT OF RELATOR JENNIFER McNALLY

---

I, Jennifer McNally, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge, and further state as follows:

1. I reside at 2409 Brentwood Road, Bexley, in the State of Ohio.
2. I am qualified to vote in the State of Ohio and am registered to vote in Franklin County, Ohio.
3. I am a member of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety.
4. I support the constitutional amendment proposed by Issue 1 that would establish the right to reproductive freedom with protections for health and safety.
5. I intend to vote for the constitutional amendment and to organize others to do the same.
6. The defective ballot language at issue in this case will undermine my efforts to organize electors to support the amendment by requiring additional work to educate them about the affected constitutional provisions.

*Jennifer McNally*

---

Jennifer McNally

STATE OF: VIRGINIA COUNTY OF: NEWPORT NEWS

Sworn to before me this 27<sup>th</sup> day of August, 2023.



\_\_\_\_\_  
Notary Public

My commission expires 11/30/2024



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# Exhibit 4

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IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* Ohioans United for  
Reproductive Rights, *et al.*,

Relators,

v.

Ohio Ballot Board, *et al.*,

Respondents.

Case No. \_\_\_\_\_

Original Action in Mandamus Pursuant to  
Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case Pursuant to  
Supreme Court Rule of Practice 12.08

Peremptory and Alternative Writs  
Requested

AFFIDAVIT OF RELATOR EBONY SPEAKES-HALL

I, Ebony Speakes-Hall, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge, and further state as follows:

1. I reside at 6617 English Oaks Station, Liberty Township, in the State of Ohio.
2. I am qualified to vote in the State of Ohio and am registered to vote in Butler County, Ohio.
3. I am a member of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety.
4. I support the constitutional amendment proposed by Issue 1 that would establish the right to reproductive freedom with protections for health and safety.
5. I intend to vote for the constitutional amendment and to organize others to do the same.
6. The defective ballot language at issue in this case will undermine my efforts to organize electors to support the amendment by requiring additional work to educate them about the affected constitutional provisions.

*Ebony Speakes-Hall*

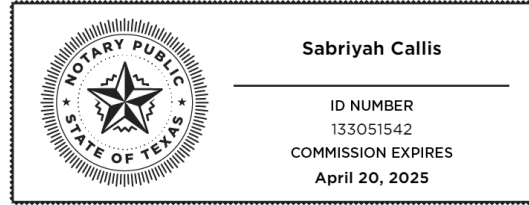
Ebony Speakes-Hall

State of Texas County of Harris

Sworn to before me this 27th day of August, 2023. By Ebony Speakes-Hall.



\_\_\_\_\_  
Notary Public



My commission expires 04/20/2025

Notarized online using audio-video communication

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# How to Verify This Transaction

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# Exhibit 5

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IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* Ohioans United for  
Reproductive Rights, *et al.*,

Relators,

v.

Ohio Ballot Board, *et al.*,

Respondents.

Case No. \_\_\_\_\_

Original Action in Mandamus Pursuant to  
Article XVI, Section 1 of the Ohio  
Constitution

Expedited Election Case Pursuant to  
Supreme Court Rule of Practice 12.08

Peremptory and Alternative Writs  
Requested

AFFIDAVIT OF RELATOR AZIZA WAHBY

I, Aziza Wahby, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge, and further state as follows:


1. I reside at 2971 Paxton Road, Shaker Heights, in the State of Ohio.
2. I am qualified to vote in the State of Ohio and am registered to vote in Cuyahoga County, Ohio.
3. I am a member of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety.
4. I support the constitutional amendment proposed by Issue 1 that would establish the right to reproductive freedom with protections for health and safety.
5. I intend to vote for the constitutional amendment and to organize others to do the same.
6. The defective ballot language at issue in this case will undermine my efforts to organize electors to support the amendment by requiring additional work to educate them about the affected constitutional provisions.

*Aziza Wahby*

\_\_\_\_\_  
Aziza Wahby

STATE OF: VIRGINIA COUNTY OF: NEWPORT NEWS

Sworn to before me this 27<sup>th</sup> day of August, 2023.



\_\_\_\_\_  
Notary Public

My commission expires 11/30/2024



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# Exhibit 6

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# INITIATIVE PETITION

**To the Attorney General of Ohio:** Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

## TITLE

The Right to Reproductive Freedom with Protections for Health and Safety

## SUMMARY

The Amendment would amend Article I of the Ohio Constitution by adding Section 22, titled "The Right to Reproductive Freedom with Protections for Health and Safety."

The Amendment provides that:

1. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one's own pregnancy, miscarriage care, and abortion.
2. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual's voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care.
3. However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.
4. As used in this Section, "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis"; and "State" includes any governmental entity and political subdivision.
5. This Section is self-executing.

## COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Nancy Kramer, 955 Urlin Avenue, Columbus, Ohio 43212  
Dr. Aziza Wahby, 2971 Paxton Road, Shaker Heights, Ohio 44120  
David Hackney, 2918 Huntington Road, Shaker Heights, Ohio 44120  
Jennifer McNally, 2409 Brentwood Road, Bexley, Ohio 43209  
Ebony Speakes-Hall, 6617 English Oaks Station, Middletown, Ohio 45044

## FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article I of the Ohio Constitution is amended to add the following Section:

Article I, Section 22. The Right to Reproductive Freedom with Protections for Health and Safety

A. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on:

1. contraception;
2. fertility treatment;
3. continuing one's own pregnancy;
4. miscarriage care; and
5. abortion.

B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:

1. An individual's voluntary exercise of this right or
2. A person or entity that assists an individual exercising this right,

unless the State demonstrates that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care.

However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.

C. As used in this Section:

1. "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis."
2. "State" includes any governmental entity and any political subdivision.

D. This Section is self-executing.

STATEMENT OF CIRCULATOR

I, Kimberly Mann, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 22 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.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

Kimberly Mann  
(Signed)

4822 W. Park Dr  
(Address of circulator's permanent residence)  
Number and Street, Road or Rural Route

Fairview Park  
City, Village or Township

Ohio 44124  
State Zip Code

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

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# Exhibit 7

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**DAVE YOST**

OHIO ATTORNEY GENERAL

Constitutional Offices  
Section  
Office: 614-466-2872

March 2, 2023

Donald J. McTigue  
McTigue & Colombo LLC  
545 East Town Street  
Columbus, Ohio 43215  
dmctigue@electionlawgroup.com

Re: Submitted Petition for Initiated Constitutional Amendment to Enact Article I, Section 22 of the Ohio Constitution— “The Right to Reproductive Freedom with Protections for Health and Safety Amendment”

Dear Mr. McTigue,

On February 21, 2023, in accordance with Ohio Revised Code Section 3519.01(A), I received a written petition containing (1) a copy of a proposed constitutional amendment, and (2) a summary of the same measure. One of my statutory duties as Attorney General is to send all of the petitions to the appropriate county boards of elections for signature verification. With all of the county boards of elections reporting back, at least 1,000 signatures have been verified.

It is my statutory duty to determine whether the submitted summary is a “fair and truthful statement of the proposed constitutional amendment.” R.C. 3519.01(A). That is, my role is limited to determining whether the wording of the summary properly advises potential petition signers of a measure’s material components. If I conclude that the summary is fair and truthful, I am to certify it as such within ten days after receipt of the petition.

I cannot base my determination on the wisdom or folly of a proposed amendment as a matter of public policy. “These arguments must be addressed to the electorate,” not to me. *State ex rel. Schwartz v. Brown*, 32 Ohio St.2d 4, 11, 288 N.E.2d 821 (1972).

Elected office is not a license to simply do what one wishes. The rule of law necessarily means that there are limits to the decision-making of those who temporarily exercise public authority. This is true of prosecutors who will not enforce criminal statutes with which they disagree, or presidents who wish to take actions not authorized by the Constitution or Congress.

It is also true of attorneys general required by a narrow law to make a decision about the truthfulness of a summary. My personal views on abortion are publicly known. In this matter, I am constrained by duty to rule upon a narrow question, not to use the authority of my office to effect a good policy, or to impede a bad one. A duty that never compels an unpleasant duty or act is not duty, but self-service, the opposite of public service—government by solipsism. That way lies chaos, and ultimately the breakdown of self-governance.

I state these first principles because it has become increasingly common for elected leaders to ignore them when convenient, and the process is accelerating as each side in our perpetual conflicts expects their own to act as faithlessly as the other side.

Enough.

Having examined the submission, I conclude that the summary is a fair and truthful statement of the proposed amendment. I am therefore submitting the following certification to the Ohio Secretary of State:

Without passing on the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General's Office under Section 3519.01(A) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed amendment.

My certification of the summary under Section 3519.01(A) should not be construed as an affirmation of the enforceability and constitutionality of the proposed amendment. *See State ex rel. Barren v. Brown*, 51 Ohio St.2d 160, 171, 365 N.E.2d 887 (1977) (holding that the "factual determination" that a summary is fair and truthful "is the extent of the role and authority of the Attorney General"). Indeed, there are significant problems with the proposed amendment, and if adopted, it will not end the long-running litigation on this topic, but simply transform it.

Should the proposal make it to the ballot, those arguments will be properly addressed to the electorate, as the Ohio Supreme Court suggested.

Yours,



Dave Yost  
Ohio Attorney General

cc: Committee Representing the Petitioners

Nancy Kramer  
955 Urlin Avenue  
Columbus, Ohio 43212

Dr. Aziza Wahby  
2971 Paxton Road  
Shaker Heights, Ohio 44120

David Hackney  
2918 Huntington Road  
Shaker Heights, Ohio 44120

Jennifer McNally  
2409 Brentwood Road  
Bexley, Ohio 43209

Ebony Speakes-Hall  
6617 English Oaks Station  
Middletown, Ohio 45044

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# Exhibit 8

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# THE OHIO BALLOT BOARD

---

Ohio Secretary of State Frank LaRose, Chair  
Senator Theresa Gavarone, Vice-Chair  
Senator Paula Hicks-Hudson  
Mr. William Morgan  
Representative Elliot Forhan

March 13, 2023

The Honorable Dave Yost  
Ohio Attorney General  
30 East Broad Street - 17<sup>th</sup> Floor  
Columbus, Ohio 43215

Re: Ballot Board approval of a proposed constitutional amendment, entitled "The Right to Reproductive Freedom with Protections for Health and Safety," as a single amendment.

Dear Attorney General Yost:

Acting pursuant to Ohio Revised Code 3519.01(A), on March 2, 2023, you transmitted to the Ohio Secretary of State, in his capacity as chairman of the Ohio Ballot Board, a proposed constitutional amendment entitled "The Right to Reproductive Freedom with Protections for Health and Safety."

As Secretary of the Ohio Ballot Board, I hereby certify that a quorum of the board met in public session on March 13, 2023, for the purpose of examining and certifying the petition in accordance with the provisions of Ohio Revised Code 3505.062(A).

I hereby further certify that the Ohio Ballot Board determined that the proposed initiative petition contains a single proposed constitutional amendment.

Sincerely,



Jeff Hobday  
Secretary, Ohio Ballot Board  
22 North Fourth Street  
Columbus, Ohio 43215

# Exhibit 9

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HEALTH CARE   POLITICS & GOV

# Ohio abortion rights supporters submit signatures, gunning for November ballot

BY: **SUSAN TEBBEN** - JULY 6, 2023   5:00 AM



**📷** COLUMBUS, Ohio — JULY 05: Field staffer directors for Ohioans United for Reproductive Rights, Dakota DesRochers (left) and Keith Siddall wait to unload the second truck with the remainder of 402 boxes of petitions with over 700,000 signatures being delivered to Ohio Secretary of State Frank LaRose, July 5, 2023, at the loading dock of the Office of the Ohio Secretary of State, downtown Columbus, Ohio. (Photo by Graham Stokes for Ohio Capital Journal. Republish photo only with original article.)

Two trucks loaded with more than 400 boxes rolled into the Ohio Secretary of State's Office Wednesday. In those boxes were 710,000 signatures abortions rights advocates say prove they have the support they need to bring a ballot measure asking voters to put abortion care in the Ohio Constitution.

“Those (402) boxes are filled with hope, and love, and freedom of bodily autonomy ... of being able to say ‘we decide what happens to us,’” said Kellie Copeland, executive director of Pro-Choice Ohio.

In [the last 12 weeks](#), advocates from groups including Ohioans for Reproductive Freedom and Ohio Physicians for Reproductive Rights have gone to farmer’s markets, held drive-through signing events, and reached across the state to collect the nearly 414,000 signatures required of them to place a measure on an Ohio voting ballot. Signature-gatherers collect far more than that minimum in an attempt to make sure enough signatures are correct and valid to meet the threshold.



📷 COLUMBUS, Ohio – JULY 05: Field staffer for Ohioans United for Reproductive Rights, Carlos Ortiz unloads the first of 402 boxes of petitions with over 700,000 signatures being delivered to Ohio Secretary of State Frank LaRose, July 5, 2023, at the loading dock of the Office of the Ohio Secretary of State, downtown Columbus, Ohio. (Photo by Graham Stokes for Ohio Capital Journal. Republish photo only with original article.)

Bill Wood was one of many collecting signatures, and he said he was overwhelmed by the support he saw the past three months.

“What amazed me is that even late in this process, there were people who were coming up to us and saying, ‘I have been looking forward to signing this, thank you for being here,’” Wood said. “The number of thank-you’s and compliments and wonderful support that we got from people at every stage was amazing.”

As part of the Westerville Progressive Alliance, he said he has participated in many signature drives and campaigns over the years.

“I will tell you when we brought this to our people, we have never seen an outpouring of interest and commitment like we’ve seen this year,” Wood said.

He said the Westerville group alone collected 9,000 signatures.

The measure would allow abortion in the state via [an amendment to the Ohio Constitution](#), that states “every individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care and abortion.”

“Ultimately, this is about giving my patients, our patients, our friends, our families, their power back,” said Dr. Marcela Azevedo, co-founder of OPRR.

If approved, the amendment would bar the state from doing anything to “directly or indirectly burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the state demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care,” according to the ballot language [certified by the Ohio Ballot Board](#).

Abortion can, however, be prohibited “after fetal viability,” defined in the proposed amendment as “the point in pregnancy when, in the professional judgment of the pregnant patient’s treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures.”

Pro-abortion rights groups say signatures were collected in every Ohio county, something that may come in handy with [another constitutional amendment](#), Issue 1, on the ballot in August that would require 60% of Ohio voters to approve of a measure, and require signatures to come from all 88 counties, rather than just the 44 of 88 required in current law.

Now, the Secretary of State’s Office will have until July 25 to verify the signatures and determine whether the measure has enough valid Ohio voter support to move forward.

If the number falls short of the required amount, advocates have 10 days to file a supplementary petition with more signatures, which must be from registered Ohio voters who didn’t sign the previous petition.

The groups working to get the measure on the ballot estimate the campaign to do it may cost approximately \$35 million.

A spokesperson for Secretary of State Frank LaRose did not respond to requests for comment.



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SUSAN TEBBEN



Susan Tebben is an award-winning journalist with a decade of experience covering Ohio news, including courts and crime, Appalachian social issues, government, education, diversity and culture. She has worked for The Newark Advocate, The Glasgow (KY) Daily Times, The Athens Messenger, and WOUB Public Media. She has also had work featured on National Public Radio.

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# Exhibit 10

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Via Certified Mail and Electronic Mail

July 25, 2023

Donald J. McTigue, Esq.  
McTigue & Columbo LLC  
545 East Town Street  
Columbus, Ohio 43215

Re: Amendment to the Constitution Proposed by Initiative Petition – “The Right to Reproductive Freedom with Protections for Health and Safety”

Dear Mr. McTigue:

The Secretary of State's Office received reports from all 88 counties that performed signature verification for the petition that was filed with our Office on July 5, 2023, to propose an amendment to the Ohio Constitution. For the proposed amendment to be submitted to the electors at the November 2023 General Election, Sections 1a and 1g, Article II of the Ohio Constitution require that petitioners gather valid signatures equal to at least 10 percent of the total votes cast for the office of governor at the last gubernatorial election (413,487 valid signatures). These Sections further require that petitioners gather valid signatures equal to at least 5 percent of the total vote cast for the office of governor in that county at the last gubernatorial election in at least 44 of Ohio's Counties.

Pursuant to Sections 1a and 1g of Article II of the Ohio Constitution and Sections 3501.05(K) and 3519.16 of the Ohio Revised Code, and based on the review and verification from the boards of elections, I hereby certify that petitioners submitted 495,938 total valid signatures on behalf of the proposed statewide initiative and that signatures from 55 counties meet or exceed 5 percent of the total number of votes cast for the office of governor in the respective counties at the last gubernatorial election.

Page Two

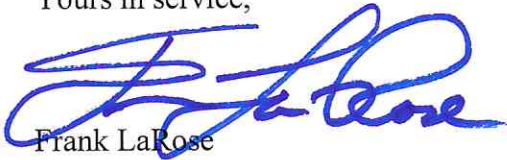
July 25, 2023

Donald J. McTigue, Esq.

These results, recorded on the enclosed document, indicate that petitioners filed a sufficient number of valid signatures and satisfied the requirements prescribed by Article II, Section 1a and 1g of the Ohio Constitution and Section 3519.16 of the Ohio Revised Code. Therefore, in the absence of judicial direction to the contrary, I will direct the boards of election to place the proposed amendment on the November 7, 2023 General Election ballot.

If you have any questions concerning this certification letter, please contact the Secretary of State's Chief Legal Counsel, Paul Disantis, at (614) 728-9504.

Yours in service,



Frank LaRose

Ohio Secretary of State

cc: Committee to Represent the Petitioners

Nancy Kramer

Dr. Aziza Wahby

David Hackney

Jennifer McNally

Ebony Speakes-Hall

Proposed Initiated Amendment to the Constitution  
The Right to Reproductive Freedom with Protections for Health and Safety  
Filed with the Secretary of State July 5, 2023

County	# of valid Part-Petitions	# of valid Signatures on valid part-petitions	# of invalid Signatures on valid part-petitions	# of invalid Part-Petitions	# of signatures on invalid part-petitions	Total # of part petitions received (valid and invalid)	Total # of signatures on part-petitions (valid and invalid)	5% of Votes for Governor	Met 5% of Votes for Governor?
Adams	101	177	51	0	0	101	228	438	No
Allen	264	890	204	0	0	264	1,094	1,622	No
Ashland	361	1,823	555	1	5	362	2,383	917	Yes
Ashtabula	642	3,328	1,484	1	1	643	4,813	1,528	Yes
Athens	332	2,176	526	2	32	334	2,734	954	Yes
Auglaize	94	287	50	0	0	94	337	927	No
Belmont	85	233	36	0	0	85	269	1,124	No
Brown	262	571	238	0	0	262	809	707	No
Butler	2,373	13,149	5,604	3	7	2,376	18,760	6,422	Yes
Carroll	306	923	314	0	0	306	1,237	503	Yes
Champaign	375	1,168	384	2	17	377	1,569	718	Yes
Clark	954	4,283	2,017	0	0	954	6,300	2,187	Yes
Clermont	1,540	8,451	2,811	0	0	1,540	11,262	4,008	Yes
Clinton	365	1,378	629	0	0	365	2,007	705	Yes
Columbiana	589	3,169	1,001	1	0	590	4,170	1,766	Yes
Coshocton	227	1,070	238	0	0	227	1,308	565	Yes
Crawford	171	324	168	0	0	171	492	737	No
Cuyahoga	7,707	77,416	34,372	2	34	7,709	111,822	20,513	Yes
Darke	319	1,077	675	0	0	319	1,752	989	Yes
Defiance	142	1,143	132	0	0	142	1,275	667	Yes
Delaware	1,734	8,670	2,721	2	35	1,736	11,426	4,940	Yes
Erie	674	3,435	1,697	0	0	674	5,132	1,446	Yes
Fairfield	1,073	3,794	1,574	0	0	1,073	5,368	2,949	Yes
Fayette	144	244	71	3	42	147	357	420	No
Franklin	5,736	53,693	27,044	2	18	5,738	80,755	21,287	Yes
Fulton	280	606	252	0	0	280	858	818	No
Gallia	45	127	27	0	0	45	154	450	No
Geauga	1,106	5,187	938	2	3	1,108	6,128	2,122	Yes
Greene	1,463	8,032	3,361	2	5	1,465	11,398	3,299	Yes
Guernsey	90	101	33	0	0	90	134	607	No
Hamilton	4,926	52,346	22,102	4	106	4,930	74,554	15,198	Yes
Hancock	313	1,511	386	0	0	313	1,897	1,360	Yes
Hardin	97	240	83	0	0	97	323	448	No
Harrison	88	103	34	1	5	89	142	258	No
Henry	200	769	282	0	0	200	1,051	520	Yes
Highland	220	775	576	5	8	225	1,359	652	Yes
Hocking	166	459	95	0	0	166	554	474	No
Holmes	193	679	206	0	0	193	885	422	Yes
Huron	326	1,095	446	0	0	326	1,541	921	Yes
Jackson	80	501	122	2	7	82	630	439	Yes
Jefferson	144	252	104	0	0	144	356	1,141	No
Knox	390	2,426	470	0	0	390	2,896	1,147	Yes
Lake	2,035	12,345	4,928	1	20	2,036	17,293	4,716	Yes
Lawrence	49	29	31	1	1	50	61	871	No
Licking	1,118	4,900	1,833	0	0	1,118	6,733	3,308	Yes
Logan	231	946	239	0	0	231	1,185	820	Yes
Lorain	2,140	16,214	5,460	0	0	2,140	21,674	5,541	Yes
Lucas	2,271	24,933	15,936	7	245	2,278	41,114	6,647	Yes
Madison	415	1,215	327	0	0	415	1,542	703	Yes
Mahoning	1,271	9,675	3,650	2	7	1,273	13,332	4,260	Yes
Marion	344	1,136	695	0	0	344	1,831	955	Yes
Medina	1,689	10,617	3,319	2	11	1,691	13,947	3,895	Yes
Meigs	42	188	17	0	0	42	205	367	No
Mercer	86	250	59	0	0	86	309	883	No
Miami	787	3,285	1,491	2	2	789	4,778	2,112	Yes
Monroe	22	4	21	0	0	22	25	242	No
Montgomery	3,273	30,233	14,206	1	35	3,274	44,474	9,355	Yes

Proposed Initiated Amendment to the Constitution  
 The Right to Reproductive Freedom with Protections for Health and Safety  
 Filed with the Secretary of State July 5, 2023

Morgan	47	558	145	0	0	47	703	238	Yes
Morrow	302	1,160	230	0	0	302	1,390	661	Yes
Muskingum	273	560	234	0	0	273	794	1,367	No
Noble	19	28	4	0	0	19	32	229	No
Ottawa	490	1,960	615	0	0	490	2,575	925	Yes
Paulding	32	80	15	0	0	32	95	323	No
Perry	183	314	143	0	0	183	457	591	No
Pickaway	472	1,483	624	5	6	477	2,113	977	Yes
Pike	57	266	43	0	0	57	309	387	No
Portage	1,681	8,439	3,678	0	0	1,681	12,117	3,020	Yes
Preble	383	834	714	0	0	383	1,548	785	Yes
Putnam	61	168	20	0	0	61	188	749	No
Richland	505	2,015	599	0	0	505	2,614	2,074	No
Ross	259	1,089	390	0	0	259	1,479	1,128	No
Sandusky	433	2,014	741	0	0	433	2,755	1,071	Yes
Scioto	118	238	67	1	1	119	306	1,050	No
Seneca	237	367	145	0	0	237	512	902	No
Shelby	199	364	113	0	0	199	477	902	No
Stark	2,301	16,251	8,383	4	59	2,305	24,693	6,696	Yes
Summit	4,445	36,529	19,841	0	0	4,445	56,370	9,917	Yes
Trumbull	1,158	8,678	2,470	1	10	1,159	11,158	3,637	Yes
Tuscarawas	577	2,932	1,143	0	0	577	4,075	1,508	Yes
Union	657	2,236	729	0	0	657	2,965	1,269	Yes
Van Wert	43	267	23	0	0	43	290	501	No
Vinton	34	117	37	0	0	34	154	198	No
Warren	2,083	10,147	2,685	6	38	2,089	12,870	5,080	Yes
Washington	109	661	130	3	6	112	797	1,132	No
Wayne	915	4,907	1,658	7	11	922	6,576	1,917	Yes
Williams	165	1,011	562	0	0	165	1,573	645	Yes
Wood	969	6,103	2,258	1	6	970	8,367	2,427	Yes
Wyandot	71	111	59	0	0	71	170	406	No
<b>TOTALS</b>	<b>71,748</b>	<b>495,938</b>	<b>214,823</b>	<b>79</b>	<b>78</b>	<b>71,827</b>	<b>711,544</b>	<b>413,487</b>	<b>55</b>

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# Exhibit 11

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# McTigue & Colombo LLC

ATTORNEYS AT LAW

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(614) 263-7000 | WWW.ELECTIONLAWGROUP.COM

August 21, 2023

Hon. Frank LaRose, Chair  
Hon. Paula Hicks-Hudson, Member  
Hon. Theresa Gavarone, Member  
Hon. Elliot Forhan, Member  
Hon. William N. Morgan, Member

Re: Ballot Language for The Right to Reproductive Freedom with Protections for Health and Safety Constitutional Amendment

Dear Chair LaRose and Members of the Ohio Ballot Board:

On behalf of the Petitioners Committee representing the more than 700,000 Ohioans who signed the initiative petition proposing The Right to Reproductive Freedom with Protections for Health and Safety Amendment to the Ohio Constitution, I am respectfully submitting proposed ballot language for the November 7, 2023, general election. The ballot language being proposed is the actual full text of the proposed amendment.

As this Board knows, ballot language may be the full text of the proposed amendment or a condensed text. Revised Code section 3505.06(E) provides that when a condensed text is used it must properly describe the amendment proposed by the petitioners. The Ohio Constitution, Article II, Section 1g adopts for initiated constitutional amendments the provisions of Article XVI, Section 1, which provides that the ballot language shall properly describe the substance of the proposal and that it may not mislead, deceive, or defraud the voters. The Ohio Supreme Court has developed standards for ballot language that the language must be accurate and not be misleading or contain material omissions or language to persuade voters how to vote. As the Board also knows, when the Board prescribes condensed language, litigation has often resulted, challenging whether ballot language meets these standards.

As written, the full text of the proposed amendment is clear, concise, and direct: The voters of Ohio will be best served by the ballot language presenting the actual full text of the proposed amendment. Moreover, in using the full text, there can be no dispute about whether legal standards have been satisfied or whether the condensed text misleads, deceives, or defrauds voters. By using the full text, voters will see for themselves the language they are being asked to approve and can make a free and independent decision on this fundamental question.

In addition to proposing ballot language, the Petitioners Committee is proposing a ballot title. Ohio Revised Code section 3519.21 provides that “In preparing such a ballot title the secretary of

state . . . 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 . . . a suggested ballot title, which shall be given full consideration by the secretary of state . . .” The Committee has submitted a concise title that is impartial, non-prejudicial, and properly denotes the subject of the proposed amendment: “To Establish the Right to Reproductive Freedom with Protections for Health and Safety.” It does not stray from the subject matter, nor pick and choose from the text of the amendment and is the title of the new section that would be added to the constitution. The Committee asks that this title be given “full consideration” by the Secretary.

Respectfully submitted,

*Don McTigue*  
Donald J. McTigue

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## ISSUE 1

### To Establish the Right to Reproductive Freedom with Protections for Health and Safety

#### Proposed Constitutional Amendment

#### Proposed by Initiative Petition

### To add a new Section 22 to Article I of the Constitution of the State of Ohio, The Right to Reproductive Freedom with Protections for Health and Safety

**A majority yes vote is necessary for the amendment to pass.**

If adopted, the Amendment would provide that:

- A. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on:
  1. contraception;
  2. fertility treatment;
  3. continuing one's own pregnancy;
  4. miscarriage care; and
  5. abortion.
  
- B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:
  1. An individual's voluntary exercise of this right or
  2. A person or entity that assists an individual exercising this right,

unless the State demonstrates that it is using the least restrictive means to advance the pregnant individual's health in accordance with widely accepted and evidence-based standards of care.

However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.

- C. As used in this Section:

1. "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis."



2. "State" includes any governmental entity and any political subdivision.

D. This Section is self-executing.

SHALL THE AMENDMENT BE APPROVED?

YES

NO

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# Exhibit 12

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1 Meeting of the Ohio Ballot Board - Excerpts

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Moderated by Frank LaRose

6

Thursday, August 24, 2023

7

3:33 p.m.

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North Hearing Room

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1 Capitol Square

12

Columbus, OH 43215

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Reported by: Nic Joseph

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JOB NO.: 6060056

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A P P E A R A N C E S

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List of Attendees:

Theresa Gavarone, Ohio State Senator, Ohio Ballot  
Board Member

Paula Hicks-Hudson, Ohio State Senator, Ohio Ballot  
Board Member

William N. Morgan, Ohio Ballot Board Member

Elliot Forhan, Ohio State Representative, Ohio Ballot  
Board Member

Josh Sabo, Ohio Ballot Board Secretary

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P R O C E E D I N G S

(Excerpt 00:00:50 - 00:05:30 of transcript begins.)

MR. LAROSE: Well, good afternoon, everybody. My name is Frank LaRose. I serve as Ohio's Secretary of State and today's purpose as chairman of the Ohio Ballot Board. I call this meeting of the ballot board to order.

Josh Sabo is our deputy chief legal counsel at the SOS Office. He will serve as our secretary for the ballot board today.

And we have a court reporter here who will transcribe a record of the proceedings. And of course the Ohio Channel is streaming this meeting live, as always, on their website, where it will also be archived and where Ohioans can view it.

Before we call the roll, I'd like to welcome back our friend, Senator Hicks-Hudson. And she's been reappointed to be a member of the Ohio Ballot Board. And so at this time I will administer the oath.

1                   Senator, you can stay in your seat if  
2 you wish and just raise your right hand.

3                   MS. HICKS-HUDSON: Yeah.

4                   MR. LAROSE: And repeat after me. "I,"  
5 state your name --

6                   MS. HICKS-HUDSON: I, Paula  
7 Hicks-Hudson --

8                   MR. LAROSE: -- "do solemnly swear" --

9                   MS. HICKS-HUDSON: -- do solemnly  
10 swear --

11                   MR. LAROSE: -- "that I will support  
12 the Constitution of the United States" --

13                   MS. HICKS-HUDSON: -- support the  
14 Constitution of the United States --

15                   MR. LAROSE: -- "and of the State of  
16 Ohio" --

17                   MS. HICKS-HUDSON: -- and of the State  
18 of Ohio --

19                   MR. LAROSE: -- "and will perform my  
20 duties" --

21                   MS. HICKS-HUDSON: -- and will perform

1 my duties --

2 MR. LAROSE: -- "as a member of the  
3 Ohio Ballot Board" --

4 MS. HICKS-HUDSON: -- and a member of  
5 the Ohio Ballot Board --

6 MR. LAROSE: -- "to the best of my  
7 ability."

8 MS. HICKS-HUDSON: -- to the best of my  
9 ability.

10 MR. LAROSE: "This I do as I shall  
11 answer under God."

12 MS. HICKS HUDSON: This I do as I shall  
13 answer unto God.

14 MR. LAROSE: Well, congratulations.  
15 Welcome back to the ballot board officially.

16 MS. HICKS-HUDSON: Thank you -- thank  
17 you -- thank you.

18 MR. LAROSE: And to determine whether a  
19 quorum of the ballot board is present, I will now ask  
20 Josh to call the roll.

21 Josh, go ahead.

1 MR. SABO: Senator Hicks-Hudson.

2 MS. HICKS-HUDSON: Present.

3 MR. SABO: Representative Forhan.

4 MR. FORHAN: Here.

5 MR. SABO: Senator Gavarone.

6 MS. GAVARONE: Here.

7 MR. SABO: Secretary LaRose?

8 MR. LAROSE: Here.

9 MR. SABO: Mr. Morgan?

10 MR. MORGAN: Here.

11 MR. LAROSE: And let the record reflect  
12 that not only a quorum but everybody is here. For  
13 today's meeting the agenda concerns two statewide  
14 issues, which are scheduled to appear on the ballot in  
15 November of 2023 for the general election.

16 One is a proposed Constitutional  
17 Amendment, which is entitled "The Right to  
18 Reproductive Freedom with Protections for Health and  
19 Safety," and a proposed law, which is entitled "An Act  
20 to Control and Regulate Adult Use of Cannabis."

21 First we will address the arguments and



1 explanations filed for the two issues, and then we  
2 will proceed to prescribe and to certify the ballot  
3 language.

4 Finally, our last order of business  
5 will be when the ballot board directs the means by  
6 which my office will disseminate information  
7 concerning proposed state issues to voters and to  
8 direct my office to contact -- contract, rather, for  
9 advertising against standard procedure.

10 Also, I'd like to remind everyone, of  
11 course, that the purpose of our work here today is not  
12 to debate the merits of these proposals. I recognize  
13 that a lot of Ohioans have strong feelings on both  
14 sides of both of these issues, but we're not here to  
15 debate the merits of these proposals.

16 Our purpose is simply to prescribe and  
17 adopt the ballot language, and then, of course, to  
18 approve the methods for disseminating this  
19 information, as the law requires.

20 First up, the order of issues on the  
21 ballot. According to section 3519.21 of the Ohio

1 Revised Code, the secretary of state determines the  
2 order of the issues appearing on the ballot and their  
3 titles.

4 And so for this November's general  
5 election, the order of issues on the ballot for the  
6 general election are as follows. The proposed  
7 Constitutional Amendment entitled "The Right to  
8 Reproductive Freedom with Protections for Health and  
9 Safety" will be issue one.

10 The proposed law entitled "An Act to  
11 Control and Regulate Adult Use of Cannabis" will be  
12 issue two.

13 Next for arguments and explanations.  
14 Petitioners filed arguments and explanations in favor  
15 of issues one and two. Those have been received by  
16 our office. They were timely filed with the Ohio  
17 Secretary of State's office on or before Monday,  
18 August 21, 2023.

19 Ohio law allows the committee that is  
20 named in an initiative petition to prepare the  
21 argument, or explanation, or both in favor of the

1 major proposed.

2           The general assembly, as they're not in  
3 session currently, did not pass a resolution naming  
4 persons to prepare the arguments or explanations  
5 against issue one or two, which means that the ballot  
6 board must either prepare the missing arguments or  
7 explanations, or designate a group of persons to  
8 prepare those arguments or explanations.

9           I want to inform the audience here, the  
10 public, that Speaker Stephens and President Huffman  
11 did submit a letter recommending the names of persons  
12 to prepare those arguments and explanations against  
13 issue one and two.

14           Their recommendations were provided to  
15 the ballot board members in advance of this meeting,  
16 and copies of their letters are in your folders.

17           (Excerpt 00:00:50 - 00:05:30 of  
18 transcript ends.)

19 //

20 //

21 //

1 (Excerpt 00:05:30 - 00:06:05 of  
2 transcript begins.)

3 MR. LAROSE: At this time, I move to  
4 designate Senator Kristina Roegner, Senator Michele  
5 Reynolds, and Representative Melanie Miller to prepare  
6 the argument and explanation against issue one. Is  
7 there a second?

8 MS. GAVARONE: Second.

9 MR. LAROSE: Seconded by Senator  
10 Gavarone. And any discussion on that? I see none.

11 Josh, please call the roll to approve  
12 those individuals to write the argument against issue  
13 one.

14 MR. SABO: Senator Hicks-Hudson.

15 MS. HICKS-HUDSON: Yes.

16 MR. SABO: Representative Forhan.

17 MR. FORHAN: Yes.

18 MR. SABO: Senator Gavarone.

19 MS. GAVARONE: Yes.

20 MR. SABO: Secretary LaRose.

21 MR. LAROSE: Yes.

1 MR. SABO: Mr. Morgan.

2 MR. MORGAN: Yes.

3 MR. LAROSE: My motion passes  
4 unanimately.

5 (Excerpt 00:05:30 - 00:06:05 of  
6 transcript ends.)

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1 (Excerpt 00:06:39 - 00:23:06 of  
2 transcript begins.)

3 MR. LAROSE: Next up, certification of  
4 ballot language.

5 At this time I will ask the secretary  
6 of the ballot board to discuss the ballot board's role  
7 today regarding the adoption of ballot language for  
8 these two issues.

9 Josh, go ahead.

10 MR. SABO: The Ohio Constitution and  
11 the Ohio Revised Code require the ballot board to  
12 draft ballot language for statewide issues that will  
13 appear on the ballot.

14 The ballot language must properly  
15 identify the substance of the proposal to be voted on.  
16 This may contain the full text or a condensed version  
17 of the proposal.

18 If a condensed version of the proposal  
19 is used, the ballot language must not omit substance  
20 of the proposal that is material.

21 Additionally, if the proposed amendment

1 is condensed, the resulting language must not result  
2 in or imply persuasive argument. The ballot language  
3 must be agreed to by majority of board members.

4 MR. LAROSE: And I'll remind everyone,  
5 again, that we're not here to debate the merits of the  
6 proposals. The purpose is only to prescribe the  
7 adopted ballot language.

8 Ballot language for issue one. We will  
9 now address the ballot language for issue one, which  
10 is, of course, a proposed Constitutional Amendment  
11 entitled "The Right to Reproductive Freedom with  
12 Protections for Health and Safety."

13 To prepare for today's meeting, our  
14 staff prepared draft language. The members received  
15 copies of the draft language yesterday before the  
16 meeting, and the draft is also included in the board  
17 members' binders, and it is available for the public  
18 at the front table.

19 At this time we will begin the public  
20 comment period. If anyone signed in wishes to address  
21 the ballot board regarding ballot language for issue

1 one, I'll ask you to identify yourself and the  
2 organization you represent.

3 Josh, is there anyone here to testify  
4 to the ballot language for issue one?

5 MR. SABO: No one signed up.

6 MR. LAROSE: All right. Seeing no  
7 witnesses, is there anyone else that wishes to testify  
8 regarding the ballot language for issue one? All  
9 right. I see no one else.

10 At this time we will move onto board  
11 member discussion. Any discussion from the board  
12 members regarding the ballot language?

13 Yeah Senator Hicks-Hudson, go ahead.  
14 Go first --

15 MS. HICKS-HUDSON: Thank you -- thank  
16 you, Mr. Chair and -- thank you, Secretary of State  
17 and our chair. I would like to move to amend the  
18 language based upon what was submitted, which I only  
19 received this morning.

20 So if it was sent to our offices, it  
21 was -- it must've been sent later in the day. But I



1 received it this morning. And I believe that what was  
2 prepared by the secretary of state's office is not a  
3 balanced, nor persuasive, or not leaning one way --  
4 not balanced at all.

5 And would ask and make a -- a motion  
6 that instead that we use the language that was  
7 submitted in -- by the proponents dated August the  
8 21st, which really takes the original language of the  
9 petition, and would like to substitute that and put  
10 that before the voters for the state of Ohio.

11 And the reason I do that is because  
12 the -- the full text is clear. It's concise and it's  
13 direct, which is one of the requirements that's --  
14 that's needed for us -- for us to present to the  
15 voters in the state of Ohio.

16 So at this time I would like to make  
17 that motion.

18 MR. LAROSE: Representative Forhan, you  
19 wish to second that?

20 MR. FORHAN: Second.

21 MR. LAROSE: Okay. It's been moved and

1 seconded. Any discussion regarding the motion that's  
2 currently on the table from Senator Hicks-Hudson?

3 All right. Seeing none, Josh, please  
4 call roll.

5 MR. FORHAN: Secretary.

6 MR. LAROSE: Yeah.

7 MR. FORHAN: If I may.

8 MR. LAROSE: Yeah. Please. Go ahead,  
9 Representative.

10 MR. FORHAN: I just want to speak --

11 MR. LAROSE: Go ahead.

12 MR. FORHAN: -- in support of the  
13 motion made by Senator Hicks-Hudson if that's all  
14 right.

15 MR. LAROSE: Yeah. Please, go ahead.

16 MR. FORHAN: So I agree with everything  
17 that Senator Hicks-Hudson said. The ballot board  
18 should trust the people of Ohio and adopt the full  
19 text of the proposed amendment.

20 The text is clear, concise, and direct.  
21 It's what hundreds of thousands of Ohioans already

1 reviewed when they signed the petitions to put the  
2 measure on the ballot.

3 The language proposed by the office of  
4 the Ohio Secretary of State is, with all due respect,  
5 rife with misleading and defective language.

6 And if I may, there's -- there's  
7 several points here that -- that, you know, exemplify  
8 the -- the problems here.

9 First, the amendment gives Ohioans the  
10 right to make reproductive -- reproductive decisions.  
11 The proposed language misleadingly transforms this  
12 into a right to "Reproductive medical treatment."

13 That's not what the measure says. It  
14 doesn't require the State of Ohio to provide medical  
15 treatment itself.

16 Second, the proposed language doesn't  
17 identify four of the five kinds of reproductive  
18 decisions addressed in the measure. Those four being  
19 contraception, fertility treatment, continuing one's  
20 own pregnancy, and miscarriage care.

21 Third, the amendment expressly

1 restricts the state from burdening, penalizing,  
2 prohibiting, interfering with, or discriminating  
3 against an individual's reproductive decision rights,  
4 yet the proposed language falsely says that it  
5 restricts the citizens of the state.

6           The measure itself defines the state to  
7 include any government entity and any political  
8 subdivision.

9           Four, the amendment uses the medically  
10 correct term -- the amendment uses the medically  
11 correct term, "fetus," but the proposed language  
12 substitutes the phrase -- for that word, the phrase  
13 "unborn child," which reflects a personal viewpoint.

14           And finally -- fifth, and finally, the  
15 ballot language is longer than the amendment and  
16 purports to summarize. It is needlessly repetitive in  
17 a -- it's a -- it's an attempt to confuse voters,  
18 Mr. Secretary.

19           These -- these defects render the  
20 language beyond repair. It should be replaced with  
21 the full text of the amendment itself.

1                   Therefore, I -- I speak in support of  
2 the -- of the motion made by Senator Hicks-Hudson that  
3 the board adopt as the ballot language the draft that  
4 was distributed. Thank you very much.

5                   MR. LAROSE: Thank you, Representative.  
6 Appreciate your explanation. And I'll be in  
7 opposition to the motion.

8                   I do want to remind everyone that the  
9 full text of any issue that's being voted on is  
10 available at each polling location -- presented on a  
11 poster in -- in the polling location, and will be  
12 published in newspapers throughout the state and  
13 available through a whole variety of publications, as  
14 well.

15                   So we always share the full text for  
16 anybody that wants to read those. And, of course, in  
17 this case, that will be available, as well.

18                   Further comment?

19                   MS. HICKS-HUDSON: If I may.

20                   MR. LAROSE: Yeah. Senator, please.

21                   MS. HICKS-HUDSON: Thank you. In

1 response to the statements that you just made about  
2 the full text being available through the boards of  
3 elections and -- and available, the whole purpose of  
4 our -- of our being here today is to make sure that we  
5 present to -- to the citizens clear language, that we  
6 present to the citizens the -- the language, and so  
7 that they can make a reasonable decision based upon  
8 the language of the ballot, not to have language that  
9 is misleading, or prejudicial, or -- or really leaning  
10 one way or the other.

11 The very fact that the language, as my  
12 colleague just spoke about, "Reproductive medical  
13 treatment," as opposed to "Decision," the -- the use  
14 of the word "citizens," as opposed to -- you're  
15 talking about individuals versus state action, which  
16 is what the amendment was designed to -- to do and  
17 what so many thousands of Ohioans signed petition and  
18 made sure that the language was clear and concise.

19 And lastly, most importantly, the --  
20 the attorney for the State of Ohio, when he  
21 approved -- his office approved the language for

1 this -- these amendments, made sure that it was fair  
2 and truthful.

3 I submit that what is being presented  
4 by your -- by the office of the secretary of state, as  
5 proposed Constitutional Amendment language does not do  
6 that.

7 In fact, it does the opposite. And so  
8 therefore I would ask that my colleagues support the  
9 amendment that I presented and that it's been seconded  
10 by my -- by Representative Forhan. Thank you.

11 MR. LAROSE: Thank you, Senator. I  
12 suppose we respectfully disagree with one another  
13 regarding this.

14 But any further conversation?  
15 Seeing none, Josh, please call the  
16 roll.

17 MR. SABO: Senator Hicks-Hudson.

18 MS. HICKS-HUDSON: Yes.

19 MR. SABO: Representative Forhan.

20 MR. FORHAN: Yes.

21 MR. SABO: Senator Gavarone.

1 MS. GAVARONE: No.

2 MR. SABO: Secretary LaRose.

3 MR. LAROSE: No.

4 MR. SABO: Mr. Morgan.

5 MR. MORGAN: No.

6 MR. LAROSE: All right. The motion  
7 fails. Further discussion.

8 Senator Gavarone, I believe you had  
9 something.

10 MS. GAVARONE: Thank you,  
11 Mr. Secretary.

12 The language of this amendment is  
13 written very broadly. And that's no mistake on the  
14 part of the drafters. This summary accurately  
15 reflects that really broad language of the amendment,  
16 and that's what we're tasked with here today.

17 No one should be fooled by the clever  
18 writing of this proposed amendment. It's designed to  
19 be broad, so broad that should it pass, it is  
20 unequivocally true that access to painful, late-term  
21 abortions will be written into Ohio's Constitution.



1           This amendment is a bridge too far,  
2 even for pro-choice women. Should this be inserted  
3 into our founding document, Ohio citizens will allow  
4 an abortionist, a person who profits from performing  
5 an abortion, to be the sole determiner if the "health  
6 of the mother" is at risk.

7           Health of the mother has been defined  
8 by the U.S. Supreme Court in Doe vs. Bolton to include  
9 all factors, physical, emotional, psychological,  
10 familial, and the woman's age relevant to the  
11 wellbeing of the mother.

12           If the abortionist says the health of  
13 the mother is at risk, even if there is scant evidence  
14 to support that medical determination, then fully  
15 healthy, viable babies at seven, eight, and even nine  
16 months can and absolutely will be aborted.

17           And all of that is before we get to the  
18 elimination of the basic health and safety standards  
19 that the general assembly has implemented over many  
20 decades, such as requiring that abortions be performed  
21 in person by a licensed doctor who has the ability to

1 transfer a woman to a hospital if something goes wrong  
2 with the abortion and also the assault on parental  
3 rights that this proposed amendment includes.

4 MS. HICKS-HUDSON: Point of order.

5 MR. LAROSE: I'm going to let Senator  
6 Gavarone finish her statement. If you've got  
7 something to say afterwards, then you can say it then.

8 MS. HICKS-HUDSON: Okay. Thank you.

9 MS. GAVARONE: The truth about this  
10 dangerous proposed amendment is hidden by overly broad  
11 language. As a woman and a mother I consider it an  
12 abomination that we're even talking about amending our  
13 constitution to allow for painful, late-term  
14 abortions. An abomination.

15 This is a dangerous amendment that I'm  
16 going to fight tirelessly to defeat. But that's not  
17 why we're here today.

18 We're here to create ballot language  
19 that accurately describes the proposed amendment as  
20 written.

21 I wish the language would've been more

1 specific to the voters as to what this proposed  
2 amendment actually means, and the disastrous  
3 consequences on women and families, as I've been  
4 urging up through today.

5 But I am thankful to have played a part  
6 in setting the record straight. And I'm proud to help  
7 deliver the truth to Ohioans about this dangerous  
8 proposal.

9 MR. LAROSE: Thank you, Senator  
10 Gavarone. And while I agree with your words, I will  
11 remind everyone we're not here to debate the merits of  
12 this. I do know that there are strong feelings here.

13 And I would offer the opportunity to  
14 Senator Hicks-Hudson, because I believe you have  
15 something to say, as well.

16 MS. HICKS-HUDSON: I appreciate that,  
17 Mr. Secretary.

18 And I am -- I am appalled that we are  
19 sitting here today with the idea that we're supposed  
20 to present a fair and concise ballot initiative for  
21 the citizens to make a decision and my colleague would

1 use such words as "overly broad" and other such things  
2 that really show that maybe this really isn't about  
3 the citizens and allowing them to make a decision, but  
4 rather to -- to discuss the merits.

5 And so, therefore, I am -- I'm appalled  
6 by that.

7 And I would ask that -- again, that we  
8 consider the language that is used in the secretary of  
9 state's proposed amendment to -- to remove and replace  
10 with -- the language about reproductive medical  
11 treatment to reproductive medical decisions and  
12 prohibit -- instead of saying, "The citizens of the  
13 state of Ohio," remove that language and say,  
14 "Prohibit the State of Ohio from directly or directly  
15 burdening, penalizing, et cetera."

16 Then -- and you said again, "And always  
17 allow an unborn child," when it should be a -- a  
18 fetus, which is the medical term.

19 And to have this language being  
20 presented is an abomination to the 7,000 or however  
21 many people that signed the petitions to get this on

1 the ballot.

2 And I do believe that the citizens in  
3 the state of Ohio will make a decision as to how they  
4 believe that their own reproductive rights can be  
5 decided. Thank you.

6 MR. LAROSE: Thank you, Senator. Was  
7 that a motion that you were making to make a change?

8 MS. HICKS-HUDSON: Yes -- yes -- those  
9 changes.

10 MR. LAROSE: Okay. Yeah.

11 MR. FORHAN: Second.

12 MR. LAROSE: All right. So I believe  
13 we understand the motion that's been made. I know it  
14 was recorded by the -- by the reporter, so -- the --  
15 the court reporter.

16 Do you want to state one more time the  
17 specific changes you want to make, so that all the  
18 members understand? And then we'll vote on it.

19 MS. HICKS-HUDSON: I appreciate that.

20 MR. LAROSE: Please.

21 MS. HICKS-HUDSON: Thank you. Under

1 the first bullet point it says, "Established in the  
2 Constitution of the State of Ohio, an individual's  
3 right to one's own reproductive medical decisions."

4 And then under the third bullet point,  
5 "Prohibit the State of Ohio," not the citizens, but  
6 "The State of Ohio from directly -- indirectly  
7 burdening, penalizing," and I would also add  
8 discriminating or prohibiting abortions.

9 And under the fifth, again, remove  
10 the -- the word "The citizens." and have "Only allow  
11 the State of Ohio."

12 And then lastly, to remove the "As --  
13 always allow an unborn fetus." Put that in, as  
14 opposed to "Unborn child to be aborted."

15 MR. LAROSE: Thank you, Senator.

16 Further discussion?

17 Josh, please call the role, as has been  
18 moved by Senator Hicks-Hudson and seconded by  
19 representative Forhan.

20 MR. SABO: Senator Hicks-Hudson.

21 MS. HICKS-HUDSON: Yes.

1 MR. SABO: Representative Forhan.

2 MR. FORHAN: Yes.

3 MR. SABO: Senator Gavarone.

4 MS. GAVARONE: No.

5 MR. SABO: Secretary LaRose.

6 MR. LAROSE: No.

7 MR. SABO: Mr. Morgan.

8 MR. MORGAN: No.

9 MR. LAROSE: All right. The motion  
10 fails. At this point, I move to approve the ballot  
11 language, as presented and shared with the members  
12 last night and presented here in the folder.

13 Is there a second?

14 MS. GAVARONE: Second.

15 MR. LAROSE: Seconded by Senator  
16 Gavarone.

17 Discussion on my motion?

18 Representative Forhan.

19 MR. FORHAN: Thank you, Mr. Secretary.

20 I think, again, it's just important to  
21 remember the purpose, why we're here, to try to

1 produce language that the voters, when they -- when  
2 they enter the polling location, enter the ballot  
3 booth and look at it for the first time, that it  
4 fairly and accurately reflects the proposed change in  
5 the law, that they're -- that's going to happen.

6 And for the reasons that we discussed  
7 before, I would submit this is not a fair and accurate  
8 representation of the change in the law. And so  
9 again, I'm going to urge a no vote with respect to the  
10 motion.

11 Thank you, Mr. Secretary.

12 MR. LAROSE: Thank you, Representative.  
13 And I would respond that having worked extensively on  
14 drafting this, I do believe that it is fair and  
15 accurate. Again, I think that we agree to disagree,  
16 perhaps on that.

17 And of course the written text of a  
18 250-plus word Constitutional Amendment creates what I  
19 consider a number of very substantial changes to Ohio  
20 Constitution.

21 We tried to summarize that the best way



1 we can and make it a clear statement here in the  
2 ballot language of what this amendment would actually  
3 do.

4 And then, of course, for any voter who  
5 wishes to read the ballot language in its entirety,  
6 it's presented right there at every polling location  
7 in the state, as well.

8 Further discussion on my motion?  
9 Again, having been moved and seconded, that we approve  
10 the language as drafted.

11 Josh, please call the roll.

12 MR. SABO: Senator Hicks-Hudson.

13 MS. HICKS-HUDSON: No.

14 MR. SABO: Representative Forhan.

15 MR. FORHAN: No.

16 MR. SABO: Senator Gavarone.

17 MS. GAVARONE: Yes.

18 MR. SABO: Secretary LaRose.

19 MR. LAROSE: Yes.

20 MR. SABO: Mr. Morgan.

21 MR. MORGAN: Yes.

1                   MR. LAROSE: By a vote of three to two,  
2 the motion carries, and the language is approved for  
3 the ballot for issue one.

4                   (Excerpt 00:06:39 - 00:23:06 of  
5 transcript ends.)

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1 (Excerpt 00:24:42 - 00:28:00 of  
2 transcript begins.)

3 MR. LAROSE: Next, the dissemination of  
4 information. Ohio Revised Code 3505.062(F) requires  
5 this board to direct the means by which the secretary  
6 of state will disseminate information concerning the  
7 statewide issues to voters.

8 I propose that this board authorize my  
9 office to provide a sufficient number of paper copies  
10 of the information regarding the statewide issue for  
11 the November 7, 2023, general election to the boards  
12 of elections -- all 88 boards of elections throughout  
13 the state to members of the state legislature, to  
14 public agencies, and to other interested persons.  
15 Additionally, this information will be  
16 published on the secretary of state website for easy  
17 internet access.

18 Is there a motion -- I'll make a motion  
19 at this point to approve the dissemination of  
20 information, as explained. Is there a second?

21 MS. GAVARONE: Second.

1 MR. LAROSE: Seconded by Senator  
2 Gavarone. Any discussion regarding the dissemination  
3 of information?

4 All right. Josh, please call the roll.

5 MR. SABO: Senator Hicks-Hudson.

6 MS. HICKS-HUDSON: Yes.

7 MR. SABO: Representative Forhan.

8 MR. FORHAN: Yes.

9 MR. SABO: Senator Gavarone.

10 MS. GAVARONE: Yes.

11 MR. SABO: Secretary LaRose.

12 MR. LAROSE: Yes.

13 MR. SABO: Mr. Morgan.

14 MR. MORGAN: Yes.

15 MR. LAROSE: Again, with all members  
16 voting in the affirmative, the motion carries, and the  
17 information will be disseminated, as is common  
18 practice for issues like this in Ohio.

19 Now advertising. I ask the secretary  
20 of the ballot board to please explain the advertising  
21 of statewide ballot issues, as required in law.

1 Josh, please go ahead and do so.

2 MR. SABO: Ohio Revised Code 3501.17(G)  
3 1 requires the state to bear the entire cost of  
4 advertising statewide ballot issues in newspapers and  
5 to reimburse the secretary of state out of the  
6 statewide ballot advertising fund for all expenses the  
7 secretary of state incurs for that advertising.

8 The secretary of state may request such  
9 funds from the statewide ballot advertising fund  
10 either before or after placing the advertising.

11 Article 2, section 1G of the Ohio  
12 Constitution requires the ballot language arguments  
13 and/or explanations for and against, and the full text  
14 of state issues to be published once a week or three  
15 consecutive weeks before the election.

16 RC3505.062(G) requires the Ohio Ballot  
17 Board to direct the secretary of state to contract for  
18 that advertising.

19 MR. LAROSE: Accordingly, I propose  
20 that the ballot board authorize my office to contract  
21 for the required advertising of the statewide issue

1 that will appear -- issues that will appear on the  
2 November 7, 2023, general election ballot, and  
3 authorize my office to request of the controlling  
4 board a transfer of sufficient funds for that purpose.

5 That's the motion that I'm making, so  
6 so moved.

7 Is there a second?

8 MS. GAVARONE: Second.

9 MR. LAROSE: Seconded by Senator  
10 Gavarone.

11 Is there any discussion?

12 Seeing none, Josh, please call the  
13 roll.

14 MR. SABO: Senator Hicks-Hudson.

15 MS. HICKS-HUDSON: Yes.

16 MR. SABO: Representative Forhan.

17 MR. FORHAN: Yes.

18 MR. SABO: Senator Gavarone.

19 MS. GAVARONE: Yes.

20 MR. SABO: Secretary LaRose.

21 MR. LAROSE: Yes.

1 MR. SABO: Mr. Morgan.

2 MR. MORGAN: Yes.

3 MR. LAROSE: And with a unanimous vote,  
4 the motion, once again, carries.

5 Thank you, everyone, for their time and  
6 attention here today. We've completed our assigned  
7 duties. And so with no further business to come  
8 before the ballot board, we are adjourned.

9 THE REPORTER: We are going to go off  
10 the record at 4 o'clock p.m.

11 (Excerpt 00:24:42 - 00:28:00 of  
12 transcript ends.)

13 (Whereupon, the meeting concluded at  
14 4:00 p.m.)

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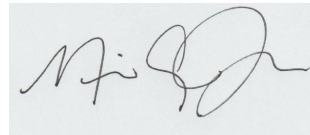
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CERTIFICATE OF DEPOSITION OFFICER

I, NIC JOSEPH, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



NIC JOSEPH  
Notary Public in and for the  
State of Ohio



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CERTIFICATE OF TRANSCRIBER

I, CHRISTINE BROWN, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



CHRISTINE BROWN

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# Exhibit 13

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**Issue 1**

**A Self-Executing Amendment Relating to Abortion and Other Reproductive Decisions**

**Proposed Constitutional Amendment**

**Proposed by Initiative Petition**

**To enact Section 22 of Article I of the Constitution of the State of Ohio**

**A majority yes vote is necessary for the amendment to pass.**

The proposed amendment would:

- Establish in the Constitution of the State of Ohio an individual right to one's own reproductive medical treatment, including but not limited to abortion;
- Create legal protections for any person or entity that assists a person with receiving reproductive medical treatment, including but not limited to abortion;
- Prohibit the citizens of the State of Ohio from directly or indirectly burdening, penalizing, or prohibiting abortion before an unborn child is determined to be viable, unless the State demonstrates that it is using the least restrictive means;
- Grant a pregnant woman's treating physician the authority to determine, on a case-by-case basis, whether an unborn child is viable;
- Only allow the citizens of the State of Ohio to prohibit an abortion after an unborn child is determined by a pregnant woman's treating physician to be viable and only if the physician does not consider the abortion necessary to protect the pregnant woman's life or health; and
- Always allow an unborn child to be aborted at any stage of pregnancy, regardless of viability if, in the treating physician's determination, the abortion is necessary to protect the pregnant woman's life or health.

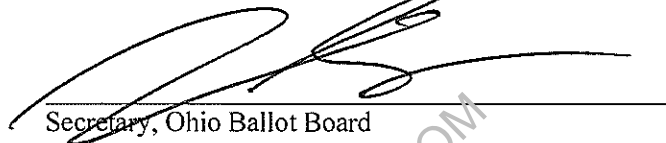
If passed, the amendment will become effective 30 days after the election.

	<b>YES</b>	<b>SHALL THE AMENDMENT BE APPROVED?</b>
	<b>NO</b>	

## CERTIFICATION

Acting in my capacity as the secretary of the Ohio Ballot Board, I hereby certify to the Secretary of the State of Ohio that the foregoing text is the ballot language prescribed by the Ohio Ballot Board, acting pursuant to Article II, Section 1g of the Ohio Constitution and Section 3505.062 of the Revised Code of Ohio, for this constitutional amendment proposed by petition for submission to the Ohio electorate at the election to be held on November 7, 2023.

In testimony whereof, I have subscribed my name in Columbus, Ohio, this 24<sup>th</sup> day of August, 2023.



Secretary, Ohio Ballot Board

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# Exhibit 14

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## Post



**Frank LaRose** ✓

@FrankLaRose



The radical left wants to amend Ohio's constitution to allow abortion on demand up to the moment of birth. Glad Jen agrees here that everyone should vote NO on Issue 1 in November.



**Jen Psaki** ✓ @jrpsaki · Aug 23

No one supports abortion up until birth.

7:15 PM · Aug 24, 2023 · 53.1K Views