

IN THE SUPREME COURT OF THE STATE OF MICHIGAN

**ORIGINAL PETITIONERS, a Coalition of Concerned Legal Michigan Voters**, Shelly Inez Lake, Larry A. Bass, Brenda Bellmore, Victoria L. Betit, Gari L. Bowling, William James Bowling, Kelli Case, Robbie L Case, Jasmine Curtis Moore, James R. Dull, Kelly R. Dull, John Gallagher, Adam Gillen, Jacqueline Gillen, Robert Edwin Goris, Stephanie Hester, Amber L. Holtrust, Billy Holtrust, Nancy Hooker, Cynthia Huisman, David Laansma, Robin Laansma, John K. Lake, Michael G. Marlow, David W. Minnaar, Frederick P. Moore, Sharon L. Olson, Rick Ray Reynolds, Jeffery Michael Schantz, Peter Reinhardt Schantz, Darrell Robert Slaughter, Gordon John-Van Smith, Jennifer Eve Smith, Karen L. Snyder, Douglas Sokolowski, Janet Sokolowski, Karen Strayer, Barbara Townsend, Carla J. Walker, Ronald Walker, Gary White, David White, Luke Lynn Deming, Geneva L. Woodmansee, Marie C. Caldero, Allison L. Case, Connie L. Case, James M. Case, Lorraine Marie Blair, Julie A. Romeyn, Rodney J. Romeyn, Loretta M. Romeyn, Catherine S. Leaf, Ty R. Leaf, Anita Yvette Clark, Bonnie Jean Gustavison, Timothy Dale Gustavison, Deborah Ann Blick, James Paul Blick, Susan Amytis Higgins, Pamela Ann Herbert, Richard Stiles Cutshaw, Elizabeth K. Cutshaw, Rodney Stewart Halcomb, Tracy Jo Stevens, Megan Kathleen Haan, Jomaa Chafic Berjawi, Ruth Kathryn Berjawi, Kimberly Ann Harris, David Harris, Barry Glenn Holley, Julie Lee Holley, Janet Talbot Beuckelaere, James Franklin Bloomfield, Sandra Kay Bloomfield, Vincent Edward Wilson, Patricia Mary Doran, Shelby L. Nowak, Veronica K. Carra, Biruta Puike Wilson, Gary Edward Mitchell, John Thomas Elieff, Kerry Lynn Elieff, Jomaa Chafic Berjawi, Ruth Kathryn Berjawi, Janet Talbot Beuckelaer, Jacquelyn Ann Fershin, Carol Jean Reed, Nancy E. Thomachefski, John Joseph Thomachefski, Maryhelen Neal, Susan C. Vandeberghe, Virginia Rosalie Carriveau, Karen Ann Gary, Patricia Ann Gary, Deanna Christine Gilbert, Susan C. Vandeberghe, Timothy Mauro-Vetter, Timothy Lawson Jacobs, Stephanie A. Beltinck, Ray Rolla McCall, Esq, Clarissa A. Filhart, Christine Kelly

Civil Action No.

---

**EMERGENCY MOTION FOR  
LEAVE TO FILE CIVIL  
PETITION FOR  
DECLARATORY JUDGMENT  
AND PRELIMINARY  
INJUNCTION**

**EMERGENCY  
ORIGINAL JURISDICTION  
REQUESTED**

Fountain, Linda Marie Richardson, Kevin J. Salisbury,  
George E. Moore, Rona Alexander, Jeff Alexander,  
Benjamin C. Hoats, Charles D. Hoats, Holly L. Hoats,  
William D. Hoats, Carol Lea Backers, Michael Brewer,  
Debra Kay Horanoff, Brian Albert Horanoff, Dean K.  
Evink, Amy L. Evink, Jeffrey Robert Strasser, Randall  
Ray Clark, Joel Studebaker, Dortha Pearl Harvey,  
Anna R. Pierce, Charles James Ritchard, Jennifer  
Standerfer, et al.

Petitioners,

v.

JOCELYN BENSON,  
SECRETARY OF STATE OF  
THE STATE OF MICHIGAN  
*In her official capacity*

and

GRETCHEN WHITMER  
GOVERNOR OF THE STATE MICHIGAN  
In her Official Capacity and as  
Vice Chair of the Democratic National Committee

and

JONATHAN BRATER,  
DIRECTOR OF ELECTIONS,  
OFFICE OF THE SECRETARY OF STATE OF THE  
STATE OF MICHIGAN

and

The MICHIGAN BOARD OF STATE  
CANVASSERS, an agency within the  
OFFICE OF THE SECRETARY OF STATE OF THE  
STATE OF MICHIGAN

and

Mary Ellen Gurewitz, Chair  
of The MICHIGAN BOARD OF STATE  
CANVASSERS in her official capacity

and

Richard Houskamp, Vice-Chair  
of The MICHIGAN BOARD OF STATE  
CANVASSERS in his official capacity

and

Jeannette Bradshaw, Member of  
The MICHIGAN BOARD OF STATE CANVASSERS  
in her official capacity

and

Anthony Daunt, Member of  
The MICHIGAN BOARD OF STATE CANVASSERS  
in his official capacity

and

THE STATE OF MICHIGAN  
c/o Attorney General Dana Nessel and  
the other Co-Respondents

Respondents.

**I. MOTION FOR LEAVE TO FILE ACCOMPANYING PETITION WITHIN THE ORIGINAL JURISDICTION OF THIS COURT**

1. Pursuant to MCL Sections [600.212](#), [600.215](#), [600.217](#), and [168.479](#), the Aggrieved Petitioners respectfully seek leave to file the accompanying Petition demanding necessary interpretation of changes to Michigan election laws here in this Michigan Supreme Court whether as a continuation or reconsideration of a case already decided here in this Supreme Court or as an original matter to be heard in this Court in the first instance.

2. Among other reasons, the Petitioners now numbering over 150 and Michigan's election officials are subject to purported amendments to the Michigan State Constitution which are devoid of any operationally-clear meaning.

3. Petitioners are aggrieved by the decision of this Court on review from the State Board of Canvassers.

4. Petitioners assert that the Court has original jurisdiction in this case, similar to *Promote the Vote v. Board of State Canvassers* (No. 164755).

5. It was the original jurisdiction of this Court that caused the MSC to issue the order to place Proposal 22-2 on the 2022 ballot. The decision to place Proposal 22-2 was made by the MSC, not the Board of State Canvassers,

6. MCL 168.479 allows aggrieved individuals to seek mandamus or other remedies in the Supreme Court regarding determinations made by the Board of State Canvassers.

7. The Board of State Canvassers correctly blocked Proposal 22-2, but the MSC ordered it to be placed on the ballot anyway. The court, not the Board, made the decision to place the proposal on the ballot.

8. MCL 168.479 mandates that legal challenges to the Board's determinations regarding the sufficiency or insufficiency of an initiative petition be filed in the Supreme Court, emphasizing the Court's role in such matters.

9. The Petition for declaratory judgment is classified as a MSC case because it is this Court that ordered the amendments to be placed on the 2022 ballot without considering the purpose, intent, and subsequent use of the nine amendments combined into one.

10. The challenge addresses both the Board's actions and the Court's order, asserting that the Supreme Court's intervention bypassed the Board's decision.

11. It is suggested by the Court Clerk that the Petitioners should start in a Circuit Court of Michigan.

12. However, on careful thought, analysis, and discussion, Petitioners believe that this

is not a workable approach whether desired or not.

13. A case in Circuit Court, undoubtedly leading to a Supreme Court appeal, would not allow enough time to inform Michigan's election officials of how they must conduct the upcoming August and November 5, 2024, elections.

14. Furthermore, that course of action would leave the Circuit Court supervising the Supreme Court and reviewing the order of this Court.

15. Can the circuit court respond to the challenges in this case and essentially overturn the order by the MSC to place the petition on the 2022 ballot, making the revisions and subsequent laws null and void?

16. If not, then this advice is in error, not accurate, and creates the appearance of a "runaround" in an effort to block or delay the rights of legal Michigan voters to have their day in the proper court, which seems to be the court that issued the order to place the Proposal on the ballot, against the decision of the Board of State Canvassers.

17. Petitioners contend that it was and is error to consider a constitutional amendment be presented to the voters without considering what does the proposed amendment actually means, if anything? The Court waded into this topic with its "abrogate" analysis, but stopped short of actually deciding officially what the voter initiative actually says. Furthermore, Article XII § 2 — of the Michigan Constitution concerning Amendment by petition and vote of electors, requires certain specific conditions under which a constitutional amendment can be properly placed on a ballot by electors, which appears were not followed in the case of Proposal 22-2.

18. The amendment proposal would not have appeared on the ballot in 2022 due to a stalemate in the Board of State Canvassers under their authority. Petitioners presume that there is a good purpose to the establishment of a four member Board, requiring at least three of four

members to agree, before placing something as critical as a constitutional amendment can be placed on a ballot.

19. This Court must construe the aspirational, vague, ambiguous terms of Proposition 22-2 presented to voters to provide a clear, operational meaning that the election officials of Michigan can follow and apply.

20. All of the Petitioners are residents and voters of the State of Michigan who are registered to vote and who intend to vote in the next election on November 5, 2024.

21. However, the State of Michigan and its election-related officials are incapable of conducting the 2024 election in the absence of clear meaning as to what the nine (9) topics of voter initiative Proposition 22-2 actually said.

22. The completely undefined, limited, and ambiguous nature of Proposition 22-2 must be defined before the State can run the 2024 election.

23. Or the purported changes must be deferred and placed on stay until after the 2024 election. Because election laws in the past were just fine and worked properly, the solution of staying these changes is entirely proper and feasible. The analysis might be different if somehow elections prior to Proposition 22-2 were not working and the changes were actually required.

24. But a stay is possible and appropriate here.

25. Proposition 22-2, despite the herculean effort of its organizers, put on the November 8, 2022, ballot several platitudes and clichés which cannot be interpreted as having any more meaning than the minimalist common denominator which voters could have understood when approving them.

26. For example, organizers in 2022 publicly described their filing here in this Court as – among other things – “More than 664,000 Michigan voters signed our petition to place the

fundamental right to vote in Michigan’s Constitution and their voices should not be silenced,” with no evidence whatsoever that these petition signers were ever verified as legal Michigan voters or that no signers are in fact “ineligible” petitioners.

27. Was there ever any doubt prior to Proposition 22-2 that “the fundamental right to vote” was already enshrined in the Michigan Constitution, Michigan Election Laws, as well as the U.S. Constitution?

28. Did this Court endorse a meaningless gesture on September 8, 2022?

29. Or did the organizers or others seeking to exploit them have an undisclosed, darker, ulterior motive being pursued in bad faith? Does asking the voters to place in the Michigan Constitution the fundamental right to vote which was clearly there already actually open the door to other, undisclosed changes not ever presented to the voters in 2022 or at any other time?

30. For example, is the 2022 vote on a platitude actually an invitation for illegal aliens who are not U.S. citizens to vote in Michigan elections, or make it impossible for the State of Michigan to guarantee that no “ineligible” ballots will not be accepted, counted or certified by the State?

31. Are there those who wish to exploit uncertainty and confusion to swell the voter rolls with Michigan’s share of an estimated 20 million to 30 million people who are not eligible to vote in Michigan?

32. Or is the seeming platitude actually a bad faith disguised effort – which the voters could not have known when voting on Proposal 22-2 – to then argue that supposed votes must be counted as votes even though their treatment violated Michigan law?

33. A will which has not been properly witnessed is not a will, but a nullity.

34. In the same way, an asserted vote which has not been cast according to Michigan's laws is not a vote.

35. Even while law enforcement and consumer agencies are loudly and widely warning consumers against the widespread practice of identity theft in which the identity of victims is stolen for the purposes of stealing funds or property, the reality that precisely the same identity theft methods also apply to voting seems to escape attention.

36. This Petition arises out of an Original Jurisdiction Michigan Supreme Court Order based upon procedural action in Order # 164755 & (7)(8)(14)(15)(16)(17), the case PROMOTE THE VOTE 2022 v BOARD OF STATE CANVASSERS, SECRETARY OF STATE, and DIRECTOR OF ELECTIONS, issued on September 8, 2022, which ordered the deadlocked State Board of Canvassers to place Proposal 22-2 on the Michigan Ballot.

37. Petitioners have good reason to believe this Proposal resulted in a number of unconstitutional revisions to the Michigan Constitution, and subsequent new election laws, making it impossible for the State of Michigan to guarantee all legally eligible Michigan voters a free, fair, lawful, secure, and transparent election process in the 2024 elections.

38. Although this Court in 2022 leaned heavily on whether the voter initiative in Proposal 22-2 had met the purely technical grounds (number of signatures, form) to be placed on the November 8, 2022, ballot, in fact this Court did not so limit its examination.

39. In the case culminating in Order # 164755, the several opinions of the Court's Justices delved very significantly into the substance and meaning of the proposed initiatives in order to consider whether the proposed amendments to the Michigan Constitution "abrogate" existing rights and responsibilities under the Michigan Constitution or fundamentally alter the structure or substance of the Michigan Constitution.



40. Thus, while leaning on technical form of Proposal 22-2, this Court’s “abrogate” analysis in fact ruled on the substance and meaning of the nine (9) different components of Proposal 22-2 (including accepting without comment or analysis whether 9 different and separate proposed changes to the Michigan Constitution can even be combined in this way at all).

41. In evaluating the substance and meaning of Proposal 22-2’s nine (9) separate topics, this Court ruled that the problematic topics were *capable of* being interpreted in a way that would be constitutional – that would not “abrogate” the provisions, rights, and current meaning of other Constitutional provisions. However, there appears to be nothing preventing the future misinterpretation and misuse of these nine constitutional revisions, which already seem to appear in some if not all of the subsequent new election laws.

42. However, this Court speculated that the topics of Proposal 22-2 *could be* interpreted in a way that would avoid substantive abrogation, this Court did not state what those interpretations are and did not construe what Proposal 22-2 actually means, or address the potential issue of these revisions being misinterpreted and misused for partisan interests, thereby abrogating the right of all legal Michigan voters.

43. Therefore, while Proposition 22-2 *could be* interpreted in acceptable ways, this Court has not yet disclosed its analysis of what Proposition 22-2’s nine topics *DO* mean must be limited to meaning to avoid abrogating the substance of the pre-2022 Constitution. As a result, it could also be misinterpreted and misused.

44. Petitioners seek legally modest but highly consequential relief: An interpretation by declaratory judgment of the 2022 voter initiative of numerous proposed amendments to the Michigan constitution necessary for the election officials of Michigan and all of its localities to correctly apply the law in the upcoming 2024 general election.

45. In 2022, the proponents of Proposal 22-2 Promote the Vote 2022 sued the Michigan Board of State Canvassers, which this court decided in *Promote The Vote 2022 v. Bd. of State Canvassers*, 510 Mich. 884; 979 N.W.2d 188; 2022 Mich. LEXIS 1626; 2022 WL 4110880 (Mich. 2022).<sup>1</sup>

46. Petitioners seek an expedited review, a declaratory judgment and a preliminary injunction to obtain a clear interpretation and understanding of the recent revisions made to Michigan's Constitution and election laws. This lawsuit focuses on the amendments made to the Michigan Constitution after the November 8, 2022, ballot initiative 22-2 which are at best ambiguous and unclear, if not intentionally misleading. Petitioners contend that the Respondents may not legally apply, follow, or enforce a different meaning or interpretation of the 2022 amendments to the Michigan State Constitution than what the voters intended in their limited understanding, under color of law. The only proposals placed before the voters were incomplete, vague and ambiguous.

47. Petitioners suggest that when revising the State Constitution, this Court should interpret the apparent changes asserted in the least adventurous way, similar to the Rule of Lenity. (See detailed discussion of civil litigation applications of lenity, in Section VIII, *infra*.) When revising the Constitution, the most certain, the most defensible interpretation of the asserted revision is the most proper, not the most adventurous and least supportable concept. When it is the Constitution being revised or amended, for the same reasons and reasoning of the criminal doctrine of Lenity, a cautious approach is to be preferred. Courts should not lightly interpret an amendment of the Constitution in the broadest possible way, but rather exercise restraint.

48. The Petitioners contend that the inadequate descriptions (summaries) of the

---

<sup>1</sup> Counsel might normally attach a key precedent, but here this is this Court's own opinion.

proposed revisions presented to the voters in initiative 22-2 mark the outer boundary of what the voters of Michigan actually approved and therefore, the Constitutional Amendments and any resulting legislation flowing therefrom cannot extend beyond or “rise above” what the voters allegedly understood and gave their approval to at the time.

49. Petitioners also request a preliminary injunction to enjoin the application, implementation, or enforcement of these revisions to the Constitution and the Michigan election laws pending a decision here on these unresolved questions. While at first blush an injunction involving elections might sound consequential, in reality, here, it is not.

50. In 2022, this Court considered a barrage of challenges from other voters and private “partisan government lobby” groups such as Stand Up for Democracy, 1630 Fund, Promote the Vote, and Defend Our Vote.

51. Petitioners agree with all those challenges argued against Proposal 22-2, due to wholly inadequate information provided to voters, necessary to acquiring the “informed consent” of the lawful citizen voters of Michigan. All of the reasons opposing placing Proposal 22-2 on the ballot seem correct to the Petitioners.

52. Nevertheless, what is presented in this case is a more focused range of issues than those brought against Proposal 22-2 in 2022 and then Petitioners out-of-court public comments. This case raises different concerns and different questions not resolved in previous actions.

53. Among other problems, Proposal 22-2 is a “revision” (rewrite) of the Constitution on elections and not an “amendment” to use the terminology Michigan courts have chosen to use to express the distinction. The test appears to be whether the revision alters the structure or substance of the Constitution, and/or how the Constitution as amended operates compared to before. Michigan in effect, Petitioners believe, considers that major revisions are in effect a

constitutional convention, and not a minor adjustment consistent with or in furtherance thereof, previous language, intent, and purpose. As a result, this Court using a slightly different term of art explored in 2022 considered whether the revisions to the Michigan Constitution suggested by Proposal 22-2 were so great a revision to fundamental aspects of the Constitution as to “**abrogate**” existing provisions of the Constitution, based upon the very limited text information provided to the court, which appeared in the Proposal Petition itself.

54. Now, in 2024, Petitioners contend that the voter initiative amendments **MUST** be interpreted in **ONLY** those ways that pass that test of validity and definition, and that the Respondents **MAY NOT** use the Proposition 22-2 amendments as spring boards to a completely different result than what this Court contemplated, or what subsequent voters allegedly approved on November 8, 2022.

55. In fact, already, advocates of unsecure, inaccurate, unaccountable, and non-transparent elections are now trying to expand on the revisions of Proposal 22-2 to allow illegal aliens who do not have U.S. or Michigan citizenship to vote in Michigan elections. See Section IV, *infra*.

56. Even prior to the voters alleged approval of the nine (9) constitutional revisions of Proposal 22-2, Respondents Secretary of State Jocelyn Benson, and Michigan Director of Elections Jonathan Brater suddenly created a new set of rules titled “The Appointments, Rights, and Duties of Poll Challengers and Election Workers,” only months before Michigan’s August 2, 2022, Primary Election. The trigger for the revisions to Michigan election guidance was:

On the day of the Primary Election in Detroit, under the new guidance of MI Soros-funded SOS Jocelyn Benson Jonathan Brater, an unknown third-party security group by the name of “ICU,” threw Braden Giacobazzi, an Independent poll challenger out of the former TCF Center (now the Huntington Place) for asking too many (legitimate) questions about ballots and the

processes that he claims were not being followed. Braden's story can be found [here](#).

Patty McMurray, "BREAKING: Lawsuit Filed by MI Residents Demands Michigan's Dirty SOS Jocelyn Benson Rescind Newly Created, Unconstitutional Rules To Make Poll Challengers Job In Upcoming Election Almost Impossible, 100 Percent Fed Up (news site), Oct 10, 2022, <https://100percentfedup.com/breaking-lawsuit-filed-by-mi-residents-demands-michigans-dirty-sos-jocelyn-benson-rescind-newly-created-unconstitutional-rules-to-make-poll-challengers-jobs-in-upcoming-election-almost-impossibl/> (The developments are reported by "100 Percent FedUp" because their reporter videotaped the incidents and presented evidence of what happened.)

Three of the five individuals who are plaintiffs in the case served as poll challengers in Detroit during the most contentious counting of absentee ballots in Michigan history. The GOP and Independent poll challengers, whose only goal was to ensure free and fair elections in 2020, quickly became targets of what appeared to be a coordinated attack by select election workers, supervisors, and election officials.

*Id. See, also*, Patty McMurray, "DETROIT: Poll Challenger Thrown Out Of Counting Center For Challenging Ballots and Internet Connection To Computer...Demands Detroit Police Officer Arrests Men Who Broke The Law! [VIDEO]," 100 Percent Fed Up, Aug 4, 2022, <https://100percentfedup.com/mi-republican-poll-worker-physically-thrown-out-of-detroit-counting-center-for-challenging-ballots-asks-detroit-police-officer-to-arrest-men-who-broke-the-law-and-threw-him-out-video/>

57. That is, even *before* the pretextual cover of Proposal 22-2 was even presented to the voters under the guise of COVID emergency authority Respondents were already acting to further deform Michigan's election laws with unauthorized and illegal changes made during the now-past COVID-19 epidemic.

58. Today, in 2024 with the attached Petition, Petitioners ask this Court to determine that if there is one particular interpretation which the Court found in 2022 passes muster of not abrogating the prior Michigan Constitution, *no OTHER interpretation can be permitted* that fails that crucial test.

**CONCLUSION**

For the reasons stated above, Petitioners respectfully request that this Court:

1. Assert original jurisdiction over this matter.
2. Grant an expedited review of this motion.
3. Issue a declaratory judgment clarifying the proper interpretation of Proposal 22-2.
4. Grant a preliminary injunction preventing the enforcement of the amendments resulting from Proposal 22-2.
5. Provide such other and further relief as the Court deems just and proper.

Respectfully submitted,

**A Coalition of Concerned Legal Michigan Voters**

cclmv.com

[cclmv@proton.me](mailto:cclmv@proton.me)

CONTACT: Shelly Lake