STATE OF MICHIGAN
IN THE SUPREME COURT

In re Independent Citizens Redistricting Commission for State Legislative and Congressional District's duty to redraw districts by November 1, 2021
_____/

Supreme Court Case No. 162891

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BRIEF OF *AMICUS CURIAE* THE MICHIGAN SENATE IN SUPPORT OF NEITHER PARTY

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Page(s)

Constitutional Provisions

Journals, Law Reviews, and Other

STATEMENT OF QUESTIONS PRESENTED

1. Whether this Court has jurisdiction over a matter that lacks adverse parties or any controversy.

Petitioners presumably answer: Yes.

Amicus Michigan Senate answers: No.

2. Whether this Court has original jurisdiction over a matter that neither involves a prerogative or remedial writ nor a request for an order directing the Independent Redistricting Commission or the Secretary of State to perform their constitutional duties.

Petitioners presumably answer: Yes.

Amicus Michigan Senate answers: No.

3. Whether this Court has the power to rewrite a constitutional provision based on practical expediency.

Petitioners presumably answer: Yes.

Amicus Michigan Senate answers: No.

STATEMENT OF INTEREST[1]

Amicus the Michigan Senate comprises one-half of the lawmaking body for the State of Michigan. Const 1963, art 4, § 1. Like the members of this Court, each Michigan Senator takes an oath of office, solemnly swearing and affirming to "support . . . the constitution of this state." Const 1963, art 11, § 1. Accordingly, the Michigan Senate has an intense interest in any judicial proceeding that implicates the faithful application of the Michigan Constitution.

This action is one such proceeding. Petitioners, Michigan Independent Citizens Redistricting Commission for State Legislative and Congressional Districts, and Jocelyn Benson, in her official capacity as Michigan Secretary of State, filed their Petition requesting that this Court rewrite the Michigan Constitution's requirement that the Commission adopt a redistricting plan by November 1, 2021. The Senate has great empathy for the Commission's position. After all, the Legislature is often called upon to act with great haste to satisfy constitutional, statutory, and practical deadlines. At the same time, the Senate has great confidence that the Commission can timely complete its work, and it is unnecessary for this Court to alter constitutional requirements, particularly given the Court's lack of original or general jurisdiction over this proceeding.

[1] This brief was not authored by counsel for a party to this case in whole or in part, nor did such counsel or a party make a monetary contribution intended to fund the preparation or submission of this brief.

CONSTITUTIONAL PROVISIONS INVOLVED

Article 4, § 6(7) of Michigan's Constitution states, in relevant part, that "Not later than November 1 in the year immediately following the federal decennial census, the commission shall adopt a redistricting plan."

Article 4, § 6(19) of Michigan's Constitution states, in relevant part, that this Court, "in the exercise of original jurisdiction, shall direct the secretary of state or the [redistricting] commission to perform their respective duties."

Article 6, § 4 of Michigan's Constitution states, in relevant part, that this Court has "power to issue, hear and determine prerogative and remedial writs" and has "appellate jurisdiction as provided by rules" of this Court.

INTRODUCTION

Michigan Independent Citizens Redistricting Commission for State Legislative and Congressional Districts, and Jocelyn Benson, in her official capacity as Michigan Secretary of State, filed their Petition asking this Court to rewrite the Michigan Constitution's requirement that the Commission adopt a redistricting plan by November 1, 2021. Specifically, the Petition asks the Court to strike the words "November 1 in the year immediately following the federal decennial census" in Article 4, § 6(7), and to replace them with the words "117 days after receiving the census data" or, alternatively, with the words "January 25 in the second year following the federal decennial census." Pet. ¶¶ 68 (asking for an extra 72+45 days).

The Michigan Senate understands and empathizes with the dilemma the U.S. Census Bureau's delay has caused the Redistricting Commission. But this Court lacks authority to rewrite the Michigan Constitution's plain text, particularly when legacy-format census data will be available to the Commission as early as mid-August 2021, and the Commission intends "to utilize such data to begin its work as soon as practicable." Pet. ¶ 38. The Senate does not disagree that the pace will be quick, but it has great confidence that the Commission can timely complete its constitutional duties without this Court taking the extraordinary step of amending the Constitution.

Leaving aside the relief requested, the Petition raises two, serious questions about this Court's jurisdiction. That is because the Petition presents no controversy between adverse parties. And the Petition presents no basis for invoking this Court's original jurisdiction.

As to the lack of adversity, this Court's power is "limited to determining rights of persons or of property, which are actually controverted in the particular case before it." *Anway v Grand Rapids R Co*, 211 Mich 592, 615; 179 NW2d 350 (1920). And here, there are no adverse parties controverting anything—only two Petitioners who agree that this Court should rewrite portions of the Michigan Constitution. In such circumstances, the Court lacks jurisdiction to take any action whatsoever.

Equally problematic, the Court lacks original jurisdiction over the Petition. This Court is generally one of "appellate jurisdiction," not original jurisdiction. Const 1963, art 6, § 4. And while Article 4, §6(19) does vest this Court with original jurisdiction to "direct the secretary of state or the commission to perform their respective duties" regarding redistricting, the Petition does not ask the Court to direct Petitioners to perform their constitutional duties; the Petition asks the Court to *change* Petitioners' constitutional duty by creating a new one.

If judges could rewrite constitutions and statutes based on their policy preferences or their personal assessments of changed circumstances or expedience, the separation of the judicial and legislative functions would collapse. As James Madison observed: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for the judge would then be the legislator." The Federalist No 47, p 326 (citation omitted). In these circumstances, the appropriate course of action is for the Court to deny the Petition.

STATEMENT OF FACTS

I. Michigan's Independent Redistricting Commission

In 2018, Michigan voters adopted Proposal 18-2 on the November 6, 2018 general election ballot, creating the Independent Citizens Redistricting Commission. Pet. ¶¶ 11–12; Const 1963, art 4, § 6. The Constitution charges the Commission with redrawing Michigan's state senate, state house, and congressional districts following each decennial U.S. Census. Const 1963, art 4, § 6(1), (13).

As the Petition explains, "no federal rule or statute requires states to use decennial census data in redistricting, so long as the redistricting complies with the U.S. Constitution and the federal Voting Rights Act." Pet. ¶ 25 (citing *Burns v Richardson*, 384 US 73, 91, 92–97 (1966)). But such data is necessary for the Commission to do its job. For example, census apportionment data is indispensable to determine how many seats Michigan has in the U.S. House of Representatives. Fortunately, the U.S. Census Bureau already announced apportionment data on April 26, 2021—ahead of schedule, see Pet. ¶ 65—and confirmed that Michigan will have 13 seats beginning in the 2022 election cycle, one less than the current Michigan congressional delegation.[2] In addition, as the Petition explains, while "the Michigan Constitution does *not* expressly require that decennial census data be used to redistrict," Pet. ¶ 26 (emphasis added), census data is a helpful tool, used to verify the population of each district and to accurately describe a redistricting plan, *e.g.*, Const 1963, art 4, § 6(9), (14)(b).

[2] Spangler, *Michigan to lose another seat in Congress as population moves West and South*, The Detroit Free Press (Apr. 26, 2021), available at https://bit.ly/33FL6WS.

II. The U.S. Census Bureau delay and its implications

Regrettably, the U.S. Census Bureau has announced a delay in promulgating the final, formatted data from the decennial census. Pet. ¶ 29. As just noted, the Bureau has already issued apportionment data, slightly ahead of the projected "delay" deadline. And the Bureau is forecasting the release of its non-tabulated or "legacy" census data by mid-to-late August 2021, Pet. ¶ 38, with the final, tabulated data—known as the PL 94-171 redistricting data files—released by the end of September 2021, Pet. ¶¶ 30, 37. As the Petition explains, the only difference between the non-tabulated and the tabulated data "is in the format the census data is presented." Pet. ¶ 37. The actual data "is identical" and "subject to the same exacting quality assurance processes." *Id.*

That is why the Commission can use the non-tabulated data "to begin its work" promptly upon receipt. Pet. ¶ 38. The only wrinkle is that, after receiving the tabulated Pl 94-171 redistricting data, the Commission will have to reconcile the two data sets, a process Petitioners expect "to take between 7-to-10 days." Pet. ¶ 40. But there is nothing in Michigan's Constitution that requires the Commission to use a "tabulated" data set to accomplish its work, nor does the Michigan Constitution require the Commission to publish "tabulated" census data when promulgating a proposed plan. Const 1963, art 4, § 6(7). All the Michigan Constitution requires is that the Commission include with its public promulgation of proposed redistricting plans "such census data as is necessary to accurately describe the plan and verify the population of each district." *Id.* And the Petition does not suggest that non-tabulated census data cannot be used for that purpose.

III. Proceedings

Based on the Commission's acknowledged ability to use the non-tabulated census data available beginning in August, the Senate has full confidence in the Commission's ability to timely develop proposed redistricting plans and to publish those plans to the public using the non-tabulated census data. Yet the Commission and the Secretary of State now petition this Court to rewrite the Constitution instead. The proceeding is a curious one, for three reasons.

First, the Petition lacks adversity. The Commission and the Secretary come to this Court together to request that the Court rewrite the Michigan Constitution. As a result, the case lacks any sort of "dispute" that this Court and the U.S. Supreme Court generally require before issuing a legal opinion. While the Michigan Constitution can certainly grant judicial power to decide a legal question absent opposing parties—Article 3, § 8 requests by the Governor or Legislature for advisory opinions immediately come to mind—there is no such grant here.

Second, this Court lacks original jurisdiction. The Petition does not request a prerogative or remedial writ under Article 6, § 4. Nor does it ask this Court to "direct" the Commission or Secretary "to perform their respective duties." Const 1963, art 4, § 6(19). Instead, the Petition asks the Court to *change* the Commission and Secretary's constitutional duties by amending the Michigan Constitution.

Finally, the Petition asks that the Court delete certain language in Article 4, §6(7) of the Michigan Constitution and replace it with the language that the Commission and Secretary prefer. Doing so opens the door for other litigants to proffer additional rewrites in the future. The Court should respectfully decline to do so.

ARGUMENT

The Michigan Senate shares the Commission and Secretary's concern about the U.S. Census Bureau's delay in promulgating data. But given the Bureau's commitment to issue non-tabulated data by mid-to-late August and the fact that nothing requires the Commission to use tabulated data to complete its work, the Senate has a far greater concern about remaining faithful to the language of the Michigan Constitution, including its limits on this Court's jurisdiction. Particularly given that the Senate has great confidence in the Commission's ability to finish its work in a timely fashion, it opposes this Court's exercise of original jurisdiction—particularly in the absence of any party adversity—to rewrite constitutional deadlines.

I. This case lacks the necessary adversity for the Court to issue an opinion.

As Judge Viviano memorably observed in a very recent, similar context, "this lawsuit appears to be a friendly scrimmage brought to obtain a binding result that both sides desire." *League of Women Voters v Secretary of State*, 506 Mich 905; 948 NW2d 70, 70 (2020) (Viviano, J, concurring). Except whereas a "scrimmage" has two opposing sides—as did the *League of Women Voters* case—this proceeding lacks any. It consists merely of two petitioners who both agree on what they would like the Court to do. That is constitutionally problematic.

The U.S. Supreme Court has long recognized that it lacks authority to adjudicate a case when both sides of the "dispute" want the same result. *E.g.*, *Moore v Charlotte-Mecklenburg Bd of Ed*, 402 US 47, 47–48 (1971) (dismissing case involving a plaintiff and defendant who agreed a law was valid and should be upheld).

The U.S. Supreme Court has done the same even as to agreed-upon *issues*, despite the existence of adversity on other claims in the case. For example, in *Webster v Reproductive Health Servs*, 492 US 490 (1989), the Court dismissed one of multiple claims because the appellees abandoned their argument as to that claim, *id.* at 512–13. And in *Williams v Zbaraz*, the Court reached several issues in the case but vacated a lower-court judgment in part for lack of jurisdiction based on the lack of party adversity as to that issue. 448 US 358, 367 (1980).

The reason for all this is because courts cannot fulfill the judicial role absent party adversity:

> [A]ny attempt, by a mere colorable dispute, to obtain the opinion of the court upon a question of law which a party desires to know for his own interest or his own purposes, when there is no real and substantial controversy between those who appear as adverse parties to the suit, is an abuse which courts of justice have always reprehended, and treated as a punishable contempt of court. [*Lord v Vezie*, 49 US (8 How) 251, 255 (1850).]

Any other practice turns courts into "self-directed boards of legal inquiry and research." *Carducci v Regan*, 714 F2d 171, 177 (CA DC, 1983) (Scalia, J).

This Court's jurisdiction is no different, being "limited to determining rights of persons or of property, which are actually controverted in the particular case before it." *Anway v Grand Rapids R Co*, 211 Mich 592, 615; 179 NW2d 350 (1920) (cleaned up). The Court has specified that a "controversy must be real and not *pro forma*," even when a *pro forma* case presents "real questions." *Id.* at 612 (cleaned up). Otherwise, "the most complicated and difficult questions of law . . . might be settled by the court upon such *pro forma* proceedings, when no real controversy or adverse interests exist." *Id.* (cleaned up).

That is why, even when a party seeks a declaratory judgment, the case must present "adverse interests" that form an actual controversy. *Assoc Builders & Contractors v Dir of Consumer & Indus Servs*, 472 Mich 117, 126; 693 NW2d 374 (2005), overruled on other grounds by *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372 n20; 792 NW2d 686 (2010). Indeed, the "actual controversy" requirement that MCR 2.605(A)(1) imposes on declaratory-judgment actions "subsume[s] the limitations on litigants' access to the courts imposed by this Court's standing doctrine." *Id.*

Here, the Commission and Secretary are not adverse; they are in lockstep and seek the same relief. Pet., Conclusion and Relief Requested. Presumably, that is why the Petition does not request declaratory relief under MCR 2.605. But the lack of adversity is fatal in any event. To date, it is not clear that either Petitioner will suffer any injury if compelled to follow the Michigan Constitution's existing requirements. As noted above, while the U.S. Census Bureau's delay is concerning, the lack of tabulated census data is not a barrier to the Commission's work, at least as the Michigan Constitution envisions the process. The Commission appropriately plans to use the non-tabulated census data that will be available in August 2021, because that data is "identical" to the final data and "subject to the same exacting quality assurance processes." Pet. ¶ 37–38. And to the extent the Constitution suggests that the Commission should promulgate proposed redistricting maps with "such census data as is necessary to accurately describe the plan and verify the population of each district," Const 1963, art 4, § 6(9), it does not require tabulated data, so the Commission is able to use the data available in August.

To be sure, moving forward with non-tabulated census data will require a speedy process. Once the Commission has that data in hand by mid-to-late August 2021, Pet. ¶ 38, the Commission will have to publish its proposed redistricting plan or plans no later than September 17, 2021, Pet. ¶ 19. But the Legislature has worked under tighter deadlines, and so has this Court. Given the Commission's fidelity to its constitutional obligations to date, the Senate has no doubt that the Commission can make this timeline work.[3]

This is not a situation where a plaintiff has been purportedly "penalized" by a defendant's "acquiescence in their argument." *League of Women Voters*, 948 NW2d at 75 n4 (McCormack, CJ, dissenting from denial of application for leave to appeal). There is no adversity because there is no injury. Nor is this a situation where the Constitution vests this Court with express jurisdiction to issue an advisory opinion absent adversity, such as when the Governor or Legislature asks this Court for an advisory opinion. Const 1963, art 3, § 8. Given the circumstances, there is no room for the Court to expand its jurisdiction, jump out of its judicial "lane," and consider important constitutional questions—such as the present request to rewrite the Michigan Constitution's text—absent adversity.

In sum, this case lacks an "actual controvers[y] arising between adverse litigants." *Anway*, 211 Mich at 616; 179 NW 350 (cleaned up). The Court should decline to exercise its jurisdiction until an appropriate dispute arises and requires this Court to opine.

[3] One problem with the lack of adversity is that there is no opposing party to explain why it's possible to publish a plan with non-tabulated data. The Court must guess.

II. This Court lacks original jurisdiction to decide the Petition.

Under Michigan's constitutional structure, this Court has "general superintending control over all courts," but only "appellate jurisdiction as provided by rules of" this Court. Const 1963, art 6, § 4. The Court exercises original jurisdiction only in the limited circumstance where the Michigan Constitution so specifies. The Petition invokes two constitutional provisions that purportedly justify this Court's exercise of original jurisdiction, Pet. ¶ 9, but neither fits the nature of this case.

1. The Petition first relies on Article 6, § 4, which—in addition to specifying that this Court generally has "appellate" rather than original jurisdiction—says that this Court has the "power to issue, hear and determine prerogative and remedial writs." Const 1963, art 6, § 4. Prerogative and remedial writs are the judicial writs that English courts would issue "only upon proper cause shown, never as a mere matter of right" because they involve "a direct interference by the government with the liberty and property of the subject, and therefore were justified only as an exercise of the extraordinary power (prerogative) of the crown." Black's Law Dictionary, p 1182 (6th ed, 1990). In the United States, these writs "are generally referred to as extraordinary writs or remedies" and include "the writs of mandamus, procedendo, prohibition, quo warranto, habeas corpus, and certiorari." *Id.* Accord generally, *People v Gaval*, 96 Mich App 708, 710–11; 294 NW2d 215 (1980) (noting that such writs "have been defined to include writs of habeas corpus"). The Michigan Court of Appeals and circuit courts share this same jurisdiction. *Citizens Protecting Michigan's Const v Secretary of State*, 324 Mich App 561, 583; 922 NW2d 404 (2018) (Court of Appeals); Const 1963, art 6, §11 (circuit courts).

The problem is that none of these writs fits the nature of the Petition's request for relief. The closest type is a writ of mandamus. But Petitioners are not entitled to mandamus in this Court, for two independent reasons. First, under MCR 3.301(A), this Court will not consider complaints for mandamus if a lower court has jurisdiction. And as just explained, a plaintiff may seek a writ of mandamus from a circuit court or the Court of Appeals. Petitioners have not done so here.

Second, a writ of mandamus will only issue "if the plaintiffs prove they have a clear legal right to performance of the specific duty sought to be compelled and that the defendant has a clear legal duty to perform such act." *In re MCI Telecommunications Complaint*, 460 Mich 396, 443; 596 NW2d 164 (1999) (cleaned up). In other words, the plaintiffs must be asking a court to compel the defendant to engage in a "ministerial act," "one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Hillsdale County Sr Servs, Inc v Hillsdale County*, 494 Mich 46, 58 n11; 832 NW2d 728 (2013) (cleaned up). The Petition is the exact opposite of a writ of mandamus. The process of creating a redistricting plan is anything but ministerial. And the Commission and Secretary are asking the Court to *change* their existing legal duty—to enact a plan no later than November 1 in the year following the decennial census—and to *replace* it with a different legal duty—to enact a plan several months later. Even more fundamentally, Petitioners are not seeking to compel the performance of a clear legal duty *by someone else*. The Petition is about Petitioners' own conduct. So, Article 6, § 4 cannot be the basis for this Court's exercise of jurisdiction.

2. The Petition alternatively relies on Article 4, § 6(19), which vests this Court with limited original jurisdiction to "direct the secretary of state or the commission to perform their respective duties," among other things. Const 1963, art 4, § 6(19). But for the same reasons, the Petition can neither invoke this Court's mandamus power nor Article 4, § 6(19): the Petition is *not* asking the Court to direct the parties to perform their duties under Article 4, § 6; it asks the Court to change those duties and create a new one. That request does not fit Article 4, §6(19)'s grant of original jurisdiction which, by its terms, narrows the judicial role in the redistricting process by limiting the Court to "directing" existing duties, not creating new ones. And the Court should be cautious to act given that the Commission is ready and able to fulfill all its constitutional obligations using the untabulated census data. Again, the Senate has full confidence that the Commission will be successful in proposing and adopting a redistricting plan within the timeframe that Article 4, §6(7) specifies. There is no need for this Court to direct a different timeline, and there is certainly no original jurisdiction to do so.

III. The Court should respectfully decline to rewrite the express language of any Michigan constitutional provision.

Most concerning to the Senate, the Petition asks this Court to rewrite the Michigan Constitution. Under the current Article 4, § 6(7), the Commission is directed to act as follows:

> Not later than November 1 in the year immediately following the federal decennial census, the commission shall adopt a redistricting plan under this section for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts. [Const 1963, Art 4, § 6(7).]

The Petition asks this Court to take a judicial blue pencil to this provision and rewrite it as follows:

> Not later than ~~November 1 in the year immediately following the federal decennial census~~ 117 days after receiving the census data, the commission shall adopt a redistricting plan under this section for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts. [See Pet. ¶ 68.]

Alternatively, the Petition would have the Court take its judicial blue pencil and rewrite Article 4, § 6(7) this way:

> Not later than ~~November 1 in the year immediately following the federal decennial census~~ January 25 in the second year following the federal decennial census, the commission shall adopt a redistricting plan under this section for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts. [See Pet. ¶ 68.]

The Constitution states the limited circumstances in which it can be amended, by (1) legislative proposal and a vote of electors, or (2) by petition and a vote of electors. Const 1963, art 12, §§ 1, 2. Aside from a general revision of the Michigan Constitution, see Const 1963, art 12, § 3, there is no other path to amendment. There certainly is no provision that authorizes the judicial branch to revise the Constitution to accord with a policy preference or even for a robust, practical reason—though no such reason has been articulated here.

The Petitions suggests that this Court "has provided similar relief in an analogous context," citing *Ferency v Secretary of State*, 409 Mich 569, 598–602; 297 NW2d 544 (1980). Pet. ¶ 63. But *Ferency* emphasized that the Michigan judiciary should suspend constitutional requirements in "[o]nly the most extreme circumstances." *Id.* at 602. And this Court in *Ferency* suspended the Board of Canvassers' 60-day certification deadline only because a Michigan circuit court had prevented

the Board from acting timely, and the court would not allow the plaintiff to be deprived of a constitutional right on account of "court interference." *Id.* at 600–01. As the Court explained, it "has a tradition of jealously guarding against legislative and administrative encroachment on the people's right to proposal laws and constitutional amendments through the petition process." *Id.* at 601 (citing *Wolverine Golf Club v Secretary of State*, 384 Mich 461; 185 NW2d 392 (1971)). The Court refused to "tolerate either such distortion of the initiative process or such misuse of the judicial process." *Id.*

The situation here is the exact opposite. The Court has been asked to revise the Michigan Constitution in a way that the electors have not approved. No constitutional rights are at risk. And there is a path for the Commission to fully comply with what the Michigan Constitution requires. Just as the Senate is required to abide by Michigan's Constitution and enacted laws, so does the Commission. And the Senate is confident the Commission can and will do so here.

The Petition also points to two, non-Michigan decisions as warranting this Court's rewriting of the Michigan Constitution. Both are inapposite. To begin, both *State ex rel Kotek v Fagan*, __ P3d __; 367 Or 803 (2021), and *Legislature of the State of California v Padilla*, 469 P3d 405 (Cal, 2020), involved opposing parties with actual adversity. Those are circumstances not present here.

In addition, the cases are distinguishable. In *Fagan*, the Oregon Supreme Court concluded that the Oregon Constitution imposed "a *duty* on the Legislative Assembly to enact a reapportionment plan based on federal census data." 367 Or at 810 (emphasis added). Here, the Michigan Constitution does *not* require the

Commission to draft a redistricting plan using only tabulated census data. Given that a writ of mandamus requires a plaintiff to prove a right to the defendant's performance of a purely ministerial duty, that contextual difference is fatal to any request for mandamus here, even had one been made.

And in *Padilla*, the Court granted a writ of mandate without discussing whether the plaintiff proved a right to the defendant's performance of a purely ministerial duty. That may be appropriate in California. But it certainly is not in Michigan, which closely guards the judicial authority to compel government officials to act, limiting the exercise of that authority to clear duties involving ministerial acts. It would be inappropriate to rely on *Padilla* as a precedent for granting a writ of mandamus in Michigan.

CONCLUSION AND REQUESTED RELIEF

The Petition's requested relief poses a risk to our constitutional system of government. The Petition "seek[s] a limited, one-time adjustment to Michigan's [constitutionally imposed] deadlines." Pet. ¶ 63. But if this Court grants that request, there will inevitably be future parties who seek additional judicial "adjustments" to Michigan's Constitution. Such a development will result in a groundswell of such requests, and it will precipitate a loss of public trust in the Michigan judiciary as the governmental branch that interprets and applies the law but does not make it.

Accordingly, *Amicus* the Michigan Senate respectfully requests that the Court deny the Petition.

Respectfully submitted,

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