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5/8/2026 2:04 PM
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IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE TENNESSEE STATE CONFERENCE and GLORIA SWEET-LOVE,	)	Case No.: 26-0591-II Chancellor Martin
Petitioners,	)	
vs.	)	
THE STATE OF TENNESSEE GOVERNOR and THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE,	)	
Respondents.	)	

DEFENDANTS' RESPONSE IN OPPOSITION
TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER OR TEMPORARY INJUNCTION IF SO CONSTRUED

INTRODUCTION[1]

Plaintiffs have sued the Tennessee Governor and General Assembly to stop them from "conducting any elections" using the State's newly enacted congressional districts. Compl. p.12(G). But the Governor and General Assembly do not conduct elections—and are immune from this suit. Plaintiffs' extraordinary request for a temporary restraining order can be denied on these grounds alone.

Beyond those dispositive threshold defects, Plaintiffs' complaint rests on the theory that "mid-decade redistricting is impermissible." Compl. ¶35. But Tenn. Code §2-16-102, cited 17 separate times in Plaintiffs' complaint, is now repealed. *See* 2026 Tenn. Pub. Ch. 1, 2d Extra. Sess. §1. And that repeal was lawful. The Governor convened a special session for "making statutory changes that are necessary to effectuate changes to the composition of Tennessee's congressional districts…." Special Session Proclamation (May 1, 2026), Compl. Ex. 1. The Legislature did just that, repealing §2-16-102. The Legislature was free to do so just as it is free to repeal any other statute, lest a legislature from decades past be permitted to bind all future legislatures. Plaintiffs' arguments to the contrary would give §2-16-102 constitutional amendment-like status.

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[1] This action must be heard by a three-judge court. *See* Tenn. Code §2-16-206; Tenn. Code §20-18-101(a); Tenn. Sup. Ct. R. 54. On May 7, 2026, Respondents filed the required notice to convene that three-judge court. The filing of that notice "stays all proceedings in the trial court until the Supreme Court determines whether to appoint a three-judge panel[.]" Tenn. Sup. Ct. R. 54 §2(f). So while Plaintiffs have filed this request for a temporary restraining order, and Respondents have filed this response, no action may be taken until the three-judge court is convened. *Id.*

Finally, Plaintiffs' complaint advances the remarkable theory that the Legislature lacked authority to make state law *more permissive* for candidates to qualify for forthcoming congressional elections. *See, e.g.*, 2026 Tenn. Pub. Ch. 2, 2d Extra. Sess. (repealing residency requirement for candidates). That claim, too, is meritless. The Governor's Proclamation stated the Legislature would "mak[e] statutory changes that are necessary to effectuate changes" to congressional districts, including those statutory changes necessary "to facilitate 2026 congressional elections" themselves. Special Session Proclamation (May 1, 2026), Compl. Ex. 1. With those words, the Proclamation put everyone on notice that the Tennessee Legislature would be passing statutory changes related to redistricting and the upcoming congressional elections. That is sufficient. There is no additional magic words requirement in Tennessee Constitution.

There is no basis for Plaintiffs' extraordinary request for any temporary restraining order—especially not against the named Respondents who will not be carrying out the election-related tasks that Plaintiffs ask to stop.

BACKGROUND

On April 29, 2026, the Supreme Court decided *Louisiana v. Callais*, 608 U.S. ___ (2026). In *Callais*, the Supreme Court clarified that States need not put racial considerations before nonracial considerations when they redistrict—even political ones. *Id.* (slip op. at 3, 24-25). Likewise in *Alexander v. South Carolina Conference of the NAACP*, 602 U.S. 1 (2024), the Supreme Court confirmed that a State may choose to prioritize

nonracial considerations in redistricting without being faulted for racially gerrymandering. *Id.* at 7-10.

With those clarifications, the Governor convened a Special Session for Tennessee to redistrict. In advance of Tennessee's congressional primary elections—which will not occur for another three months on August 6, 2026—the Special Session began on May 5, 2026. The Legislature repealed a statute that prohibited mid-decade redistricting, 2026 Tenn. Pub. Ch. 1, 2d Extra. Sess. §1, replaced the existing districts with redrawn congressional districts, 2026 Tenn. Pub. Ch. 3, 2d Extra. Sess., revised candidate qualification requirements and deadlines, 2026 Tenn. Pub. Ch. 2, 2d Extra. Sess., and made sufficient and substantial appropriations to facilitate forthcoming elections pursuant to the new districts, 2026 Tenn. Pub. Ch. 4, 2d Extra. Sess. Any candidates who have already qualified remain qualified to run in whatever district they choose by May 15. 2026 Tenn. Pub. Ch. 2, 2d Extra. Sess.

LEGAL STANDARD

An injunction is an "extraordinary" remedy that should be granted "with great caution" and "only after full and ample evidence that it is necessary." *Hall v. Britton*, 292 S.W.2d 524, 531 (Tenn. Ct. App. 1953). "[T]here is no power the exercise of which is more delicate, which requires greater caution, deliberation and sound discretion or is more dangerous in a doubtful case than the discretion of granting of an injunction." *Newsom v. Tenn. Republican Party*, 647 S.W.3d 382, 386 (Tenn. 2022) (quotation marks omitted).

Plaintiffs' request for a temporary restraining order is especially extraordinary—available only if "immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party can be heard in opposition." Tenn. R. Civ. P. 65.03(1)(A). Applied here, Respondents submit this opposition with all deliberate speed so that they have the opportunity to be heard in opposition.[2] As such, Plaintiffs' request is better understood as requesting the "extraordinary" remedy of a temporary injunction.

Any such emergency injunctive order to Plaintiffs requires consideration of the following factors: (1) likelihood of success on the merits, (2) the threat of irreparable harm to the plaintiff if an injunction is not granted, (3) the balance between that threatened harm and harm to the defendant from granting the injunction, and (4) the public interest. *Fisher v. Hargett*, 604 S.W.3d 381, 394 (Tenn. 2020); *see Fannon v. City of Lafayette*, 329 S.W.3d 418, 421 n.4 (Tenn. 2010) (distinguishing temporary restraining order from an "order … in the nature of a temporary injunction," "entered after notice to the Defendants and a hearing on the issues presented"). Plaintiffs must "clearly show[]" by evidence that their "rights are being or will be violated" and that they "will suffer immediate and irreparable injury." Tenn. R. Civ. P. 65.04(2); *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 441 (1974).

[2] Respondents submit this opposition so that they may be heard before any temporary restraining order could be issued and without waiving additional arguments to be raised in the normal course of any further litigation.

ARGUMENT

I. Plaintiffs Are Not Likely to Succeed on the Merits.

A. Plaintiffs' suit is barred by sovereign immunity.

Plaintiffs' claims cannot succeed because neither the Governor nor the General Assembly have consented to be sued, they are immune, and no exception to sovereign immunity applies.

The sovereign immunity doctrine generally prevents courts from hearing claims against "state agencies and state officers acting in their official capacity" without the State's consent. *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 849 (Tenn. 2008); *see* Tenn. Const. art. I, §17. When sovereign immunity applies, it serves as a "subject matter jurisdictional bar." *Recipient of Final Expunction Order in McNairy Cnty. Circuit Court Case No. 3279 v. Rausch*, 645 S.W.3d 160, 167 (Tenn. 2022). Because Respondents have not consented to be sued and because no exception to sovereign immunity applies, there is no getting around that sovereign immunity bar here.

1. There has been no waiver of sovereign immunity. The General Assembly has not prescribed any "terms and conditions under which the State may be sued" in these circumstances, *Smith v. Tenn. Nat'l Guard*, 551 S.W.3d 702, 708-09 (Tenn. 2018), let alone done so "in plain, clear, and unmistakable terms," *Mullins v. State*, 320 S.W.3d 273, 283 (Tenn. 2010) (cleaned up). So while Plaintiffs invoke the Declaratory Judgment Act and the statute equipping this Court with its equitable power, Tenn. Code Ann. §29-14-102(a);

Tenn. Code Ann. §16-11-103, neither "contain[s]" the "explicit waiver of sovereign immunity" required to provide subject matter jurisdiction. *Colonial Pipeline*, 263 S.W.3d at 853; *see Mullins*, 320 S.W.3d at 283.

Indeed, the State recently repealed Tenn. Code Ann. §1-3-121, which created a cause of action for individuals to seek declaratory or injunctive relief regarding the "legality or constitutionality of a governmental action." In 2026 Tenn. Pub. Acts, ch. 664, the General Assembly clarified that it "never intended … to waive Tennessee's sovereign immunity" and "maintains its intent to retain Tennessee's sovereign immunity." After the repeal of §1-3-121, there can be no question that the State has not waived sovereign immunity for suits like this one against its state officials.

2. Nor does the exception from *Colonial Pipeline* apply. *Colonial Pipeline* anticipates that a plaintiff may sue a "state officer[] to prevent the enforcement of an unconstitutional statute." *Colonial Pipeline*, 263 S.W.3d at 854. That *Colonial Pipeline* exception parallels *Ex Parte Young*, 209 U.S. 123 (1908), and reflects the legal fiction that "an officer acting pursuant to a statute that is unconstitutional and void does not act as an agent of the State," *Colonial Pipeline*, 263 S.W.3d at 852. But the exception reaches only those officials "responsible for enforcing" an allegedly unconstitutional statute, *id.* at 852-53 (quotation omitted), not those "who lack a special relation to the particular statute and are not expressly directed to see to its enforcement,'" *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1047 (6th Cir. 2015) (cleaned up); *accord Stockton v. Morris & Pierce*, 110 S.W.2d 480, 482

(Tenn. 1937) ("an officer *while executing* an unconstitutional act, is not acting by authority of the State" (quotation omitted) (emphasis added)). "General enforcement authority is insufficient." *EMW Women's Surgical Ctr., P.S.C. v. Beshear*, 920 F.3d 421, 445 (6th Cir. 2019).

The *Colonial Pipeline* exception is inapplicable to the Governor (and the General Assembly). The Governor's "general duty to enforce state law" does not give him a special relation to the particular statute as to "allow a plaintiff to sue [him] under *Ex Parte Young*" and thus *Colonial Pipeline*. *Tenn. Conf. of NAACP v. Lee*, 746 F. Supp. 3d 473, 509 (M.D. Tenn. 2024) (collecting cases); *see Ex parte Young*, 209 U.S. at 157. (As for the General Assembly, the General Assembly enforces no state law; it writes them. *See* Tenn. Const. art. II, §3 *et seq.*). So while Plaintiffs' complaint demands that various election laws be declared void and requests an injunction preventing Respondents from "conducting any elections" or notifying voters pursuant to those laws, Compl. p.12(G), Respondents have no such enforcement authority. It is the Secretary of State, through the Coordinator of Elections, who coordinates the administration of elections—not the Governor, and surely not the General Assembly. *See, e.g.*, Tenn. Code Ann. §2-11-201(a)-(b).

And the Secretary of State does not "act[] at the[] direction" of the Governor. Compl. P.12. In Tennessee, the Secretary of State is an independent constitutional officer "appointed by joint vote" of the General Assembly, Tenn. Const. art. III, §17, and only removable by the House of Representatives through impeachment, Tenn. Const. art. V,

§ 4. Because of his constitutional character and means of appointment and removal, the Secretary of State is insulated from gubernatorial control. Rather, the Secretary of State is a fellow constitutional officer, unlike other members of the Governor's cabinet who "hold office at [his] pleasure" and are established by statute, Tenn. Code Ann. §4-3-112(b). *See Williams v. Boughner*, 46 Tenn. 486, 492 (1869).

In short, Plaintiffs will not be able to show that Respondents are "responsible for enforcing" an allegedly unconstitutional statute, *Colonial Pipeline*, 263 S.W.3d at 852-53. They lack the requisite "special relation" to the challenged election laws to allow this suit to proceed. *See Russell*, 784 F.3d at 1047.

B. Legislative immunity precludes Plaintiffs' claims against the General Assembly.

The General Assembly is also immune from this suit because it challenges legislative acts that are "part of the Legislature's deliberative process." *Mayhew v. Wilder*, 46 S.W.3d 760, 775 (Tenn. Ct. App. 2001). Far from warranting the extraordinary remedy of a temporary restraining order or temporary injunction, legislative immunity compels dismissal. *Id.* at 774-75; *see, e.g.*, *Kent v. Ohio House of Representatives Democratic Caucus*, 33 F.4th 359, 365-67 (6th Cir. 2022) (dismissing claims against legislative caucus); *Smolsky v. Pennsylvania Gen. Assembly*, 34 A.3d 316, 321-22 (Pa. Commw. Ct. 2011) (dismissing prisoner's suit against General Assembly); *see also*, *e.g.*, *Supreme Ct. of Virginia v. Consumers Union of U.S., Inc.*, 446 U.S. 719, 738 (1980) (finding error in award of attorney's fees against state supreme court insofar as it was acting in legislative capacity).

That defense of legislative immunity is older than the country itself, with "taproots in the Parliamentary struggles of the Sixteenth and Seventeenth Centuries" in England. *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951). It is an immunity deemed so essential that it was enshrined in the English Bill of Rights, then in the Articles of Confederation and the earliest state constitutions, and the U.S. Constitution. *Id.* Tennessee is no exception. The Tennessee Constitution's Speech and Debate Clause states legislators "shall not be questioned in any other place." Tenn. Const. art. II, §13. Legislative immunity derives from that clause and is "sweeping and absolute." *Mayhew*, 46 S.W.3d at 774. To interpret its exact scope, the Court of Appeals has said federal cases interpreting the U.S. Constitution's nearly identical language are "particularly helpful." *Id*.

These "speech or debate" protections apply "broadly," *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 501 (1975), "attach[ing] to all actions taken 'in the sphere of legitimate legislative activity,'" *Bogan v. Scott-Harris*, 523 U.S. 44, 54 (1998) (quoting *Tenney*, 341 U.S. at 376). Applied here, the challenged acts—the passage of legislation during Tennessee's special legislative session—are undoubtedly "legislative activity." *Id.* (quotations omitted). Legislative immunity applies here, as in other cases, "to avoid intrusion by the … Judiciary into the affairs of a coequal branch" and "the desire to protect legislative independence." *United States v. Gillock*, 445 U.S. 360, 369 (1980).

C. Plaintiffs lack standing.

1. Plaintiffs cannot establish any injury required for standing to challenge the repeal of Tenn. Code §2-16-102 or the suspension of the one-year residency requirement to qualify as a congressional candidate for the 2026 elections. For public rights challenges like the ones at issue here, *Wygant v. Lee*, No. M2023-01686-SC-R3-CV, 2025 WL 3537313, at *17 (Tenn. Dec. 10, 2025), Plaintiffs "must show a distinct and palpable injury," *ACLU of Tenn. v. Darnell*, 195 S.W.3d 612, 620 (Tenn. 2006), "not common to citizens … generally," *LaFollette Med. Ctr. v. City of LaFollette*, 115 S.W.3d 500, 503 (Tenn. Ct. App. 2003). They must allege "a sufficiently *personal* stake in the outcome of the litigation to warrant a judicial resolution of the dispute." *City of Brentwood v. Metro. Bd. of Zoning Appeals*, 149 S.W.3d 49, 55 (Tenn. Ct. App. 2004) (emphasis added).

a. Plaintiffs allege no "personal stake" for their challenge to the repeal of Tenn. Code §2-16-102. They simply dislike it, no different than a generalized grievance that could be raised by any other Tennessean opposed to the recent election-law changes. *But see LaFollette Med. Ctr.*, 115 S.W.3d at 503; *City of Chattanooga v. Davis*, 54 S.W.3d 248, 280 (Tenn. 2001) (finding no standing for lack of a "particularized injury"). As for Plaintiffs' alleged concerns about elections administration, the very memorandum they attached to their complaint undermines those concerns—instructing county officials to prepare in advance for changes to districts. *See* Compl. Ex. 2; *infra* II. Plaintiffs cannot rely on speculative fears; "rather, they must set forth 'specific facts' and 'concrete details' to

prove that injury is sufficiently likely in the near future." *Wygant*, 2025 WL 3537313, at *20-22 (quotations omitted). They failed to do so.

b. Likewise for the suspension of the residency requirement, Plaintiffs allege no "distinct and palpable injury" distinct from a generalized grievance. *Id.* (cleaned up). Ms. Sweet-Love does not allege that she seeks to become a candidate; NAACP of Tennessee doesn't identify any members who seek to become candidates. Even if Plaintiffs had identified such a candidate, there is no conceivable "injury." *ACLU of Tenn.*, 195 S.W.3d at 620. With the recent changes to the qualifying requirements, the State has *relaxed* barriers to becoming a candidate. In such circumstances, Plaintiffs can assert no imminent harm from that expansion of the potential candidate pool. *See, e.g.*, *Massengale v. City of E. Ridge*, 399 S.W.3d 118, 120, 126 (Tenn. Ct. App. 2012) (rejecting standing to challenge law expanding the pool of businesses that could sell fireworks); *Nat'l Gas Distribs. v. Sevier Cnty. Util. Dist.*, 7 S.W.3d 41, 43-44 (Tenn. Ct. App. 1999) (existing propane seller did not have standing to challenge law authorizing others to also sell propane). Plaintiffs thus have no standing to challenge the suspension of the residency requirement.

2. Plaintiffs also lack standing because no order from this Court entered against the Governor or the General Assembly will redress Plaintiffs' alleged harm. Neither the Governor nor the General Assembly implement the election laws that Plaintiffs ask this Court to enjoin. *Supra*, I.B. Accordingly, this action "cannot redress any injury caused by the Act[]." *R. K. by & through J. K. v. Lee*, 53 F.4th 995, 1000-01 (6th Cir. 2022); *see also Tenn.*

Med. Ass'n v. Corker, No. 01-A-01-9410-CH00494, 1995 WL 228681, at *2 (Tenn. Ct. App. Apr. 19, 1995) ("If the physicians were injured, it is not related to the State's actions, and their injury is not likely to be redressed by this action. Thus, the redressability requirement of standing is also lacking."); *see also Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1253 (11th Cir. 2020) ("[A]ny injury would be traceable only to 67 Supervisors of Elections and redressable only by relief against them. The voters and organizations' failure to join the Supervisors as defendants is an independent reason that they lack standing to maintain this action.").

D. The State lawfully repealed §2-16-102 as part of the Special Session.

In addition to the foregoing jurisdictional defects in Plaintiffs' complaint, Plaintiffs are unlikely to succeed on the merits of their claim. In simplest terms, Plaintiffs contend the Governor didn't use just the right magic words to describe the exact election laws he hoped to change when he convened the Special Session, and so any legislation resulting from the special session is "void." *See generally* Compl. p.12. Plaintiffs take an all too jaundiced view of the Tennessee Constitution and the Governor's Proclamation that began the Special Session.

1. Article III, §9 of the Tennessee Constitution empowers the Governor to "convene the General Assembly by proclamation" and "state specifically the purposes for which they are to convene." The General Assembly, in turn, may then "enter on no legislative business except that for which they were specifically called together." Tenn. Const. art.

III, §9. This power to convene a special session is broad: the Governor need not "define with precision" the subjects of legislation. *State v. Woollen*, 161 S.W. 1006, 1010 (Tenn. 1913) (quotation omitted). Instead, the "rule by which the language of the Governor's proclamation must be tested to determine whether the legislation under consideration was included" is "that the presumption is always in favor of the constitutionality of an act" and "any piece of legislation … should be held within the call, if it can be done by any reasonable construction." *City of Rockwood v. Rodgers*, 290 S.W. 381, 382 (Tenn. 1926) (quoting *Woollen*, 161 S.W. at 1014-15); *accord Corn v. Fort*, 95 S.W.2d 620 (Tenn. 1936).

The General Assembly's repeal of §2-16-102 falls well within a "reasonable construction" of the Governor's call. The Proclamation identifies one objective of the special session as "(2) making statutory changes that are necessary to effectuate changes to the composition of Tennessee's congressional districts…." Compl. Ex. 1. That language plainly contemplates the repeal of Tenn. Code §2-16-102, as "necessary to effectuate changes" to the congressional districts, Compl. Ex. 1. And the Legislature did just that. *See* 2026 Tenn. Pub. Ch. 1, 2d Extra. Sess. §1.

Plaintiffs claim (at Compl. ¶15) that the Governor's Proclamation does not identify Tenn. Code §2-16-102 by name. But that is not the test. *See supra.* Nothing in the text of Article III, §9 supports Plaintiffs' name-the-specific-statute rule. Indeed, it would take an act of fortune-telling by the Governor to predict what exact legislation the Legislature would pass (or fail to pass) at a future Special Session. The text instead focuses on "the

purposes" for which the legislature convenes. Tenn. Const. art. III, §9. The word "purposes" refers broadly to the "object to be reached or accomplished" or the "end or aim." N. Webster, An American Dictionary of the English Language (1828). The Governor can set the "end or aim" without calling out specific statutory provisions for modification. And he does so routinely. *See, e.g.,* Ex. ___, August 3, 2020 Governor's Proclamation (calling extraordinary session during COVID "to consider . . . legislation" providing "COVID-related liability protection," "concerns Tennesseans' access to" telemedicine, and protecting people and "protects the right of all Tennesseans to peacefully demonstration").

Nor do Plaintiffs identify any precedent supporting their request for hyper-specific special-session calls. If anything, nearly a century of precedent cuts the other way. The Tennessee Supreme Court doesn't impose procedural gotchas on special sessions. It imposes a deferential standard, asking whether "any reasonable construction" of the call covers the legislation at issue. *City of Rockwood*, 290 S.W. at 382 (quotation omitted).

Contrast the Governor's Proclamation this week with what appears might be the only case in which the Tennessee Supreme Court held that the Legislature exceeded the scope of the Governor's call: when it passed a law "extend[ing] the time for the redemption of real estate" after the Governor convened the Legislature for the "military and political interests of the state." *Davidson v. Moorman*, 49 Tenn. 575, 577 (1870). There, the Governor never "reference[d], directly or remotely … municipal enactment," so the

Legislature's action was a "nullity." *Id.* at 577-78. *Davidson* stands for the self-evident proposition that a special session called for the purpose of considering "military and political interests" is not a special session called for passing "real estate" legislation. *Id.* at 577. Conversely here, a special session called for the purpose of redistricting and the 2026 congressional elections is a special session called for passing redistricting and elections legislation. The Governor's proclamation specifically contemplated "necessary … changes … to facilitate the 2026 congressional elections." Compl. Ex. 1. The repeal of §2-16-102 follows from "any reasonable construction" of that call. *City of Rockwood*, 290 S.W. at 382 (quotation omitted).

2. Nor is there any merit to the suggestion that the Legislature could not repeal §2-16-102. The 1970s-era legislature cannot bind the present-day legislature. *See* 1A *Sutherland Statutory Construction* §22:2 (8th ed.) ("One legislature cannot limit the nature or extent of a subsequent legislature's power to amend."). Statutes are statutes, repealable at will, lest they take on constitutional status. Tennessee has long recognized that the power to repeal is inherent in the legislative power. Article II, section 3 of the Tennessee Constitution vests the "Legislative authority" in the General Assembly. This is "'the authority to make, order, and repeal law.'" *Gallaher v. Elam*, 104 S.W.3d 455, 464 (Tenn. 2003) (quoting *State v. King*, 973 S.W.2d 586, 588 (Tenn. 1998)); *accord State v. Bank of Tenn.*, 64 Tenn. 101, 438 (1875) ("One Legislature can repeal the acts of another Legislature."). Other courts, too, recognize that the power to "repeal, modif[y], alter[], or amend[]" a

"law" is "within the general legislative powers." *Helvering v. Nw. Steel Rolling Mills*, 311 U.S. 46, 51 (1940); *see also Clinton v. City of New York*, 524 U.S. 417, 444 (1998) (repeals, including "partial repeals," of statutes are acts of the legislative power).

3. Even if there were any doubt about the constitutionality of the Legislature's actions, that doubt must be resolved in the Legislature's favor. Courts must "presume that acts of the legislature are constitutional and indulge every doubt in favor of constitutionality." *Wygant*, 2025 WL 3537313, at *25 (quotation marks omitted) (collecting cases). For redistricting-related laws specifically, the Tennessee Constitution "gives the legislature the principal responsibility and primary authority for redistricting." *Id*. (quotations omitted). Likewise, the U.S. Constitution grants "the Legislature," not a state court, the authority to make laws governing the times, places, and manner of congressional elections. U.S. Const. art. I, §4, cl. 1. So while the "legislature's exercise of that authority is not wholly immune from judicial oversight," "the judiciary should not micromanage the legislature or be too quick to second-guess…." *Wygant,* 2025 WL 3537313, at *25. Plaintiffs bear a "heavy burden of overcoming that presumption," *id.* (quotations omitted), that the repeal of §2-16-102 was constitutional; they have come nowhere near meeting that burden for the extraordinary remedy of a temporary restraining order or temporary injunction. While the wisdom of changing the law is demonstrably open to debate, as evidenced by the boisterous disagreement surrounding

its passage, this is a political dispute that carries political consequences and should be resolved through political processes.

E. The State lawfully suspended the residency requirement as part of the Special Session.

Plaintiffs next claim (at Compl. ¶22) that the Governor's Proclamation does not specifically mention changing residency requirements. But again, the Proclamation says "(2) making statutory changes that are necessary to effectuate changes to the composition of Tennessee's congressional districts and to facilitate 2026 congressional elections." Compl. Ex. 1. Those "changes" included suspending the residency requirement, among other changes to candidate qualifications requirements, to allow *more* potential candidates to qualify. *See* 2026 Tenn. Pub. ch. 2, 2d Extra. Sess. Those changes "facilitate 2026 congressional elections" by removing barriers for new potential candidates to qualify in the new districts. For the reasons briefed, *supra* I.D., that language in the Governor's Proclamation is more than sufficient to amend the residency requirements. The Constitution requires the Governor to simply identify the "purposes" of the special session. Tenn. Const. Art. III, §9. He was not required to "define with precision" how the Special Session would change the requirements for candidate qualifications. *Woollen*, 161 S.W. at 1010 (quotation omitted). Even if there were any doubt that "any reasonable construction" of the Proclamation anticipated the suspension of the residency requirement, the "presumption … in favor of the constitutionality of an act" requires any

such doubts to be resolved in the State's favor. *City of Rockwood*, 290 S.W. at 382 (quotation omitted).

II. Plaintiffs Will Not Suffer Irreparable Harm Absent an Injunction.

Plaintiffs have not shown they will suffer irreparable harm without a temporary restraining order or temporary injunction. Plaintiffs suggest that changes to district lines will cause election administration problems. *See* Compl. ¶¶44, 47-48. For the reasons that follow, such speculation cannot establish irreparable harm. *See Memphis A. Philip Randolph Inst. v. Hargett,* 978 F.3d 378, 391 (6th Cir. 2020) (showing of irreparable harm requires "both certain and immediate" injury, not "speculative or theoretical" (quotation marks omitted)).

Plaintiffs have no evidence of election administration problems. For starters, the primaries are not "imminent." *Contra* Compl. ¶48. Tennessee holds one of the latest primary elections in the country, set for August 6. Early voting doesn't begin until July 17. Candidates now have extended time to qualify until May 15. *See* Tenn. Stat. 2-16-204(a)(2)(B). And more than a month remains before the federal deadline to fulfil the requirements for military and overseas citizen ballots. *See* 52 U.S.C. §20302(a)(8); Tenn. Code Ann. §2-6-503(a).

As for Plaintiffs' reliance on a recent memorandum from the Tennessee Coordinator of Elections sent to county election commissioners on May 4, *see* Compl. ¶¶45-46 & Compl. Ex. 2, that memorandum *belies* Plaintiffs' speculation of election

administration problems. In that memorandum, the Coordinator of Elections instructed the counties to begin preparing for the redistricting changes and reiterated the steps that counties would need to take once redistricting occurs. *See* Compl. Ex. 2, at 1-3. He assured the counties that additional funding would be coming to cover "costs associated with any changes required." *Id.* at 2. Nowhere did he state that there would be any operational difficulties in accommodating a change to the districts. *Id.* Indeed, Davidson County Elections Administration has publicly proclaimed that he is "'100% confident' his office can implement [the] new redistricting plan in time for the August congressional primary." Evan Mealins, *Nashville elections chief confident office can make changes by primary*, The Nashville Tennessean (May 8, 2026), Defs. Ex. 2. Plaintiffs' claims otherwise are little more than conjecture. *But see Memphis A. Philip Randolph Inst.*, 978 F.3d at 391.

Finally, Plaintiffs omit entirely that the State has committed substantial funding to ensure the smooth administration of the primary election, including appropriating funds to implement the new districts. *See* 2026 Tenn. Pub. Ch. 4, 2d Extra. Sess. §2 (appropriating over $3 million "for the sole purpose of reimbursing counties for expenses incurred by county election commissions for the 2026 congressional elections."). As explained at length in the attached declaration from the Division of Elections, those funds allow for significant overtime and all tasks necessary to implement changes to the State's nine congressional districts. *See generally* Dodd Declaration, Defs. Ex. 1.

III. The Balance of Harms and Public Interest Demands Denial of Plaintiffs' Extraordinary Requested Relief.

Even if Plaintiffs could show they were likely to succeed on the merits and establish irreparable harm, "the court must carefully weigh the balance between that harm and the harm that granting the injunction will inflict on the defendant, as well as the public interest." *Moore v. Lee*, 644 S.W.3d 59, 67 (Tenn. 2022) (reversing grant of temporary injunction).

A. Any balancing of the harms compels the denial of Plaintiffs' requested relief. If an injunction is entered, "Tennessee will suffer irreparable harm from its inability to enforce the will of its legislature." *L.W. by & through Williams v. Skrmetti*, 73 F.4th 408, 421 (6th Cir. 2023); *see also Thompson v. DeWine*, 976 F.3d 610, 619 (6th Cir. 2020) ("[A]ny time a state is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury."(citation omitted)). That is doubly true in the election context. The "inability" to conduct elections under a "duly enacted" redistricting plan "clearly inflicts irreparable harm on the State" and the members of the public it represents, *Abbott v. Perez*, 585 U.S. 579, 602 n.17 (2018). If, after the 2026 election, the Court's "judgment is ultimately reversed, the State cannot run the election over again, this time applying" its Congressional Map. *Veasey v. Perry*, 769 F.3d 890, 896 (5th Cir. 2014). "[T]he State has a significant interest in ensuring the proper and consistent running of its election machinery, and this interest is severely hampered by [an] injunction." *Id.*

The U.S. Supreme Court has "repeatedly emphasized" that the "balance of equities" favors proceeding with elections under "plans created by the legislature," rather than "judicially constructed plans," when liability has not been finally resolved. *Karcher v. Daggett*, 455 U.S. 1303, 1307 (1982) (Brennan, J., in chambers). Unsurprisingly, the Court regularly stays injunctions against redistricting plans to preserve the status quo until appellate review concludes, even in circumstances where appellate review came out in Plaintiffs' favor. *See, e.g., Robinson v. Callais*, 144 S. Ct. 1171 (2024) (Mem.); *Merrill v. Milligan*, 142 S. Ct. 879 (2022) (Mem.); *Perry v, Perez*, 565 U.S. 1090 (2011) (Mem.).

The same rules apply here. The Division of Elections "has already begun" to implement the 2026 Plan. Dodd Declaration ¶¶13-15, Defs. Ex. 1. That 2026 Plan, following the repeal of §2-16-102, as well as the changes to candidate qualifying requirements, including suspension of the residency requirement, are now the status quo. Any court order that derails that status quo offends the *Purcell* principle, cautioning against late-breaking injunction bound to cause "uncertainty and confusion" for the forthcoming elections. *Moore*, 644 S.W.3d at 65-66 (applying *Purcell v. Gonzalez*, 549 U.S. 1 (2026) (per curiam)). That principle applies to this mid-decade redistricting just as it applied after the census. *See, e.g., Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418 (2025) (per curiam) (faulting district court for enjoining use of Texas's newly enacted congressional districts).

Plaintiffs' only response is that the equities tip in their favor because they presume they are likely to succeed on the merits. *See* Compl. ¶49. But that ignores the Tennessee Supreme Court's caution that the equities are to be treated *independent* of Plaintiffs' perceived likelihood of success (and irreparable harm). *See Moore*, 644 S.W.3d at 67. Even if Plaintiffs were correct on the merits, in other words, they still need to proffer reasons why the equities tip in their favor separate from the merits. They have failed to do so. And that failure is even more dispositive given the paucity of support provided for Plaintiffs' merits arguments.

B. Finally, the public interest likewise compels the denial of Plaintiffs' request for extraordinary relief. Redistricting "is a legislative task" that "courts should make every effort not to pre-empt." *Wise v. Lipscomb*, 437 U.S. 535, 539 (1978) (Op. of White, J.) (collecting cases); *Wygant*, 2025 WL 3537313, at *25. The 2026 Plan and the associated changes to the State's election laws, all enacted by the General Assembly, are themselves "a declaration of public interest." *Virginian Ry. Co. v. System Fed'n No. 40*, 300 U.S. 515, 552 (1937); *see Berman v. Parker*, 348 U.S. 26, 32 (1954) ("when the legislature has spoken, the public interest has been declared in terms well-nigh conclusive"). In addition, there is a "strong presumption that acts passed by the legislature are constitutional." *McClay v. Airport Mgmt. Servs., LLC*, 596 S.W.3d 686, 689 (Tenn. 2020) (quotations omitted). Tennessee courts "indulge every presumption to resolve every doubt in favor or the statute's constitutionality." *Id.* That presumption is a factor "to be considered in favor of

applicants in balancing hardships." *Walters v. Nat'l Ass'n of Radiation Survivors*, 468 U.S. 1323, 1324 (1984) (Rehnquist, J., in chambers).

CONCLUSION

For the reasons explained above, Plaintiffs' request for the extraordinary remedy of a temporary restraining order or temporary injunction should be denied.

Respectfully submitted,

JONATHAN SKRMETTI
Attorney General and Reporter

/s/ Zachary L. Barker
ZACHARY L. BARKER (BPR #035933)
Senior Assistant Attorney General
ANDREW DENNING (BPR #042208)
Assistant Attorney General
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, Tennessee 37202-0207
Phone: (615) 532-7400
Zachary.barker@ag.tn.gov
Andrew.denning@ag.tn.gov
(615) 532-4098

TAYLOR A.R. MEEHAN (PHV forthcoming)
BRYAN K. WEIR (PHV forthcoming)
OLIVIA C. ROGERS (PHV forthcoming)
Consovoy McCarthy PLLC
1600 Wilson Blvd., Suite 700
Arlington, VA 22209
taylor@consovoymccarthy.com
bryan@consovoymccarthy.com
orogers@consovoymccarthy.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was filed and served by email and/or operation of the Court's eFileTN filing system on this the 8th of May 2026, upon:

Isaac Thomas Conner
Chudi Echetebu
1720 West End Avenue, Ste. 300
Nashville, TN 37203
615-254-1600
iconner@mansonjohnsonlaw.com

Van D. Turner, Jr.
2650 Thousand Oaks Boulevard, Suite 2325
Memphis, TN 38118
(901) 290-6610
vturner@turnerfeildlaw.com

Kristen Clarke
Myesha Braden
Anthony P. Ashton
4805 Mt. Hope Drive
Baltimore, MD 20215
(410) 580-5777
legal@naacpnet.org
*Pro hac vice motions to be filed

/s/ Zachary L. Barker
ZACHARY L. BARKER (BRP #035933)
Senior Assistant Attorney General