MISSOURI COURT OF APPEALS
WESTERN DISTRICT

ANNA FITZ-JAMES,	)	
	)	
Appellant,	)	**WD88392**
	)	
v.	)	**OPINION FILED:**
	)	
SECRETARY OF STATE DENNY HOSKINS, ET AL.,	)	**December 4, 2025**
	)	
	)	
Respondents.	)	
	)	

Appeal from the Circuit Court of Cole County, Missouri
Honorable Daniel Green, Judge

Before Special Division: Thomas N. Chapman, Presiding Judge, W. Douglas Thomson, Judge, and Janet Sutton, Judge

In the November 2024 general election, Missouri voters passed "The Right to Reproductive Freedom Initiative," also known as Amendment Three. "The Right to Reproductive Freedom Initiative" is now found in article I, section 36, of the Missouri Constitution. In its 2025 regular session, the General Assembly passed House Joint Resolution 73 (HJR 73), which proposes to repeal article I, section 36, and adopt a new section relating to reproductive health care.

Anna Fitz-James (Fitz-James) filed suit in the Circuit Court of Cole County, Missouri, (circuit court) against the Missouri Secretary of State Denny Hoskins and other State officials (collectively, the Respondents) challenging HJR 73 because it contained more than one subject

and was, therefore, unconstitutional. Alternatively, Fitz-James alleged that HJR 73's summary statement and fair ballot language statement were insufficient and unfair. The circuit court concluded that HJR 73 met the constitutional requirements of article XII, section 2(b), as it did not contain more than one subject. The circuit court concluded, however, that HJR 73's summary statement and fair ballot language statement were both insufficient and unfair. After the Secretary of State submitted two revised versions of the summary statement and fair ballot language statement, the circuit court concluded that the revisions were fair and sufficient under sections 116.155 and 116.025.[1] Thereafter, the circuit court certified the second revised summary statement and second revised fair ballot language statement to the Secretary of State.[2] Fitz-James appealed to this Court. We affirm in part, and reverse in part.

While we agree with the circuit court that HJR 73 passes constitutional muster, we conclude that both statements fail to sufficiently advise voters that HJR 73, if enacted, would repeal and replace article I, section 36, as well as inform voters of its additional effects. Therefore, we certify to the Secretary of State a revised summary statement and fair ballot language statement.

[1] All statutory citations are to the Revised Statutes of Missouri (2016) as updated, unless otherwise noted.

[2] We note that section 116.190, which controls ballot challenges and procedures, was amended effective August 28, 2025, to add the procedure allowing the Secretary of State up to three revisions to be reviewed by the circuit court. Fitz-James's petition was filed on July 2, 2025, the bench trial was held on August 27, 2025, and the order and partial judgment referring the initial ballot summary and fair ballot language back to the Secretary of State for revision was entered on September 19, 2025. No challenge has been made by the parties as to whether this statute is procedural and, thus, applied retroactively. Therefore, we do not address the retroactivity issue.

Factual and Procedural Background

In the November 2024 general election, Missouri voters approved Constitutional Amendment Three, "The Right to Reproductive Freedom Initiative," which was proposed by initiative petition. Amendment Three, codified in article I, section 36, of the Missouri Constitution, provides, *inter alia*, that:

> The Government shall not deny or infringe upon a person's fundamental right to reproductive freedom, which is the right to make and carry out decisions about all matters relating to reproductive health care, including but not limited to prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions.

Mo. Const. art. I, § 36.2.

In January 2025, HJR 73 was introduced in the Missouri General Assembly. On May 14, 2025, the General Assembly truly agreed to and finally passed the house committee substitute for HJR 73 to be referred to the voters at the next general election in November 2026.

The General Assembly titled HJR 73, "Submitting to the qualified voters of Missouri an amendment repealing Section 36 of Article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to reproductive health care." If enacted, HJR 73 would repeal the "fundamental right to reproductive freedom" found in article I, section 36, which includes, but is not limited to, prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions. HJR 73 would then replace article I, section 36, with the following language:

> [Subsection] 1. The state's duty to protect public health and welfare includes protecting the integrity and ethics of the medical profession. The state's interest in regulating the practice of medicine is even greater in areas of medical and scientific uncertainty or in areas that raise grave moral and ethical concerns, including abortion and gender transition procedures.
>
> [Subsection] 2. An abortion may be performed or induced . . . in cases of medical emergency, fetal anomaly, rape, or incest. In the case . . . of rape or incest, the

abortion may be performed or induced no later than twelve weeks gestational age of the unborn child.

[Subsection] 3. The general assembly may enact laws that regulate the provision of abortions, abortion facilities, and abortion providers to ensure the health and safety of the pregnant mother. These laws shall include, but not be limited to, laws requiring physicians providing abortion care to have admitting privileges at a nearby hospital; laws requiring facilities where abortions are performed or induced to be licensed and inspected for clean and safe conditions and adequate instruments to treat any emergencies arising from an abortion procedure; laws requiring physicians to perform a sufficient examination of the woman to determine the unborn child's gestational age and any preexisting medical conditions that may influence the procedure; and laws requiring ultrasounds to be performed only by physicians or licensed medical technicians.

[Subsection] 4. No abortion shall be performed or induced . . . based on a prenatal diagnosis, test, or screening indicating a disability in an unborn child, except in cases of a fetal anomaly.

[Subsection] 5. No public funds shall be expended for the purpose of performing, inducing, or otherwise assisting any abortion, except in cases of medical emergency, rape, or incest, as otherwise authorized by law.

[Subsection] 6. Except in cases of a medical emergency in which consent cannot be obtained, no abortion shall be performed or induced upon a woman without her voluntary and informed consent, given freely and without coercion. In the case of a minor under the age of eighteen years who is not emancipated, no person shall knowingly perform or induce an abortion, except in cases of a medical emergency in which consent cannot be obtained, unless the attending physician has obtained: (1) the written consent of the minor and a parent or legal guardian; and (2) documentation of the consent is retained in the minor's medical record. Licensed medical physicians shall be required to provide women with medically accurate information. The general assembly may enact laws to provide for the right of a minor to consent to an abortion as granted by a court order.

[Subsection] 7. Fetal organ harvesting after an abortion is not permitted under any circumstances.

[Subsection] 8. A woman's ability to access health care in cases of miscarriages, ectopic pregnancies, and other medical emergencies shall not be infringed by the state.

[Subsection] 9. No gender transition surgeries shall be knowingly performed on children under eighteen years of age, and no cross-sex hormones or puberty-blocking drugs shall be knowingly prescribed or administered for the purpose of gender transition to children under eighteen years of age. . . .

> [Subsection] 10. Any action challenging the validity of any state law relating to reproductive health care shall be brought in the Circuit Court of Cole County, Missouri. . . .
>
> [Subsection] 11. The general assembly shall have the authority to enact laws to carry out the provisions of this section.

The General Assembly included an official summary statement in HJR 73, as authorized by section 116.155. The summary statement read as follows:

> Shall the Missouri Constitution be amended to:
> - Guarantee access to care for medical emergencies, ectopic pregnancies, and miscarriages;
> - Ensure women's safety during abortions;
> - Ensure parental consent for minors;
> - Allow abortions for medical emergencies, fetal anomalies, rape, and incest;
> - Require physicians to provide medically accurate information; and
> - Protect children from gender transition?

The Secretary of State also prepared and transmitted a fair ballot language statement for HJR 73 to the Attorney General pursuant to section 116.025 which stated:

> A "yes" vote will amend the Missouri Constitution to allow abortion in cases of medical emergency, fetal anomaly, rape, or incest, with a twelve-week gestational limit for rape or incest; require physicians to provide medically accurate information; require informed and voluntary consent, including parental or judicial consent for minors; authorize laws to regulate abortion providers and facilities to ensure health and safety; prohibit public funding of abortions except in limited circumstances; guarantee access to care for ectopic pregnancies, miscarriages, and medical emergencies; and protect children from gender transition by prohibiting certain medical procedures and medications for minors, with exceptions for specific medical conditions.
>
> A "no" vote will not amend the Missouri Constitution to allow abortion in cases of medical emergency, fetal anomaly, rape, or incest, or to protect children from gender transition.
>
> If passed, this measure will not increase or decrease taxes.

On June 27, 2025, the Secretary of State certified the official ballot title for HJR 73, which included the official summary statement drafted by the General Assembly.

Fitz-James filed a petition for declaratory judgment and injunctive relief in the circuit court, asserting three claims. First, Count I, that HJR 73 violated article XII, section 2(b), of the Missouri Constitution because it contained more than one subject by including subsections addressing "gender transition surgeries" and requirements regarding the procedure for challenging the validity of a state law "relating to reproductive health care," when the main subject of HJR 73 related to reproductive health care. Next, Count II, that HJR 73's summary statement violated section 116.155 because it was insufficient and unfair. Finally, Count III, that HJR 73's fair ballot language statement violated section 116.025 because it was insufficient and unfair.

After a bench trial during which the parties jointly stipulated to the facts and exhibits, the circuit court entered an order and partial judgment on September 19, 2025. On Count I, the circuit court concluded that HJR 73 met the constitutional requirements of article XII, section 2(b), because its "provision generally prohibiting gender-transition treatments for children closely related to reproductive healthcare" and its "provisions governing litigation against reproductive healthcare statutes [were] also closely related to the single subject of reproductive healthcare." On Count II, the circuit court agreed with Fitz-James, concluding that the summary statement was insufficient and unfair because it failed to adequately alert voters that the proposed constitutional amendment would eliminate article I, section 36, of the Missouri Constitution, which voters had recently approved. On Count III, for the same reason, the circuit court concluded that the fair ballot language statement was insufficient and unfair. The circuit court transmitted the summary statement and fair ballot language statement to the Secretary of State for revision. *See* § 116.190.4(2).

On September 26, 2025, the Secretary of State filed its first revised summary statement for HJR 73 which asked:

> Shall the Missouri Constitution be amended to:
> - Guarantee women's medical care for emergencies, ectopic pregnancies, and miscarriages;
> - Ensure women's safety during abortions;
> - Ensure parental consent for minors;
> - Amend Article I, section 36, approved in 2024; allowing abortions for medical emergencies, fetal anomalies, rape, and incest; and
> - Prohibit sex-change procedures for children?

The first revised fair ballot language statement, filed the same day, stated:

> A "yes" vote will amend the Missouri Constitution to guarantee women's medical care for medical emergencies, ectopic pregnancies, and miscarriages; authorize laws to regulate abortion providers and facilities to ensure health and safety; require informed and voluntary consent for an abortion, including parental or judicial consent for minors; amend Article I, Section 36, approved in 2024, and allow abortions in cases of medical emergency, fetal anomaly, rape, or incest, with a twelve-week gestational limit for rape or incest; require physicians to provide medically accurate information; prohibit public funding of abortions except in limited circumstances; and protect children from sex-change by prohibiting certain medical procedures and medications for minors, with exceptions for specific medical conditions.
>
> A "no" vote will not amend the Missouri Constitution to guarantee women's medical care for emergencies, ectopic pregnancies, and miscarriages, require parental consent for minors' abortions, require health and safety standards for abortions, limit abortion to cases of medical emergency, fetal anomaly, rape, or incest, or to protect children from sex-change.
>
> If passed, this measure will not increase or decrease taxes.

In a September 30, 2025, order, the circuit court concluded the revisions were fair, sufficient, and not misleading except for bullet point four of the first revised summary statement. Citing *Pippens v. Ashcroft*, 606 S.W.3d 689, 700 (Mo. App. W.D. 2020), the circuit court noted that this Court previously held that a summary statement is insufficient and unfair if it fails to alert voters that a constitutional amendment will be repealed by a new amendment's passage.

Accordingly, the circuit court transmitted the summary statement for HJR 73 to the Secretary of State for a second revision. *See* § 116.190.4(2).

The second revised summary statement[3] for HJR 73 submitted by the Secretary of State on October 2, 2025, read as follows:

> Shall the Missouri Constitution be amended to:
> - Guarantee women's medical care for emergencies, ectopic pregnancies, and miscarriages;
> - Ensure women's safety during abortions;
> - Ensure parental consent for minors;
> - *Repeal* Article I, section 36, approved in 2024; *allow* abortions for medical emergencies, fetal anomalies, rape, and incest; and
> - Prohibit sex-change procedures for children?

The second revised fair ballot language statement was also modified to read:

> A "yes" vote will amend the Missouri Constitution to guarantee women's medical care for medical emergencies, ectopic pregnancies, and miscarriages; authorize laws to regulate abortion providers and facilities to ensure health and safety; require informed and voluntary consent for an abortion, including parental or judicial consent for minors; *repeal* Article I, Section 36, approved in 2024, and allow abortions in cases of medical emergency, fetal anomaly, rape, or incest, with a twelve-week gestational limit for rape or incest; require physicians to provide medically accurate information; prohibit public funding of abortions except in limited circumstances; and protect children from sex-change by prohibiting certain medical procedures and medications for minors, with exceptions for specific medical conditions.
>
> A "no" vote will not amend the Missouri Constitution to guarantee women's medical care for emergencies, ectopic pregnancies, and miscarriages, require parental consent for minors' abortions, require health and safety standards for abortions, limit abortion to cases of medical emergency, fetal anomaly, rape, or incest, or to protect children from sex-change.
>
> If passed, this measure will not increase or decrease taxes.

Fitz-James opposed the second revised summary statement and fair ballot language statement. For bullet point one, Fitz-James argued that the second revised summary statement

[3] The revisions made from the first revised summary statement and first revised fair ballot language statement, *infra*, to the second revised statements are italicized.

implied the Constitution would, for the first time, guarantee access to certain care if HJR 73 was approved. For bullet point two, Fitz-James argued that it did not accurately reflect the legal and probable effects of HJR 73 because HJR 73 did not include a single provision that would "ensure" women's health. For bullet point four, Fitz-James argued that the second revised summary statement should name the amendment which HJR 73 would repeal, and clarify it is the same provision voters recently approved. Fitz-James additionally requested that the circuit court order the Secretary of State to make bullet point four the first bullet point of the summary statement. For bullet point five, Fitz-James argued that the statement needed to be more specific to ensure voters were accurately informed that HJR 73 bans gender transition care for minors, even if parents and doctors agree it is appropriate. For the same reasons, Fitz-James argued that the fair ballot language statement was unfair, insufficient, and misleading.

The circuit court issued its order and final judgment on October 10, 2025. The circuit court concluded the revisions to both statements were fair and sufficient under sections 116.155 and 116.025. The circuit court certified the second revised statements to the Secretary of State and ordered their inclusion on the ballot pursuant to section 116.190.4(2)(c).

Fitz-James appeals. Section 116.190.5 requires any action brought under the section to be fully and finally adjudicated within one hundred eighty days of filing, including all appeals, unless good cause is shown for an extension. The notice of appeal was filed on October 20, 2025. We have, therefore, substantially expedited the briefing schedule and the disposition of this appeal. Additional facts relevant to the disposition of the appeal are included below as we discuss Fitz-James's points on appeal.

Standard of Review

In court-tried cases, we will affirm a circuit court's judgment "unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law." *Fitz-James v. Ashcroft*, 678 S.W.3d 194, 202 (Mo. App. W.D. 2023) (citing *Fitzpatrick v. Ashcroft*, 640 S.W.3d 110, 124-25 (Mo. App. W.D. 2022)). But, "[w]here . . . the parties simply argue the fairness and sufficiency of the summary statement [or fair ballot language] based upon stipulated facts, joint exhibits, and undisputed facts, the only question on appeal is whether the trial court drew the proper legal conclusions, which we review *de novo*." *Fitzpatrick*, 640 S.W.3d at 125 (citation omitted).

Analysis

Fitz-James raises eleven points on appeal. Point I sets out Fitz-James's argument that the circuit court erred in holding that HJR 73 does not violate the Missouri Constitution's single subject requirement. Fitz-James contends that HJR 73 combines provisions addressing reproductive health care with unrelated provisions restricting gender transition procedures for minors and provisions altering venue and intervention rules for constitutional litigation. In Points II through VII, Fitz-James argues that the circuit court erred in concluding that the summary statement was fair and sufficient based on the language of bullet points one, two, four, and five. In Points VIII through XI, Fitz-James contends that the circuit court erred in concluding that the fair ballot language statement was fair and sufficient. We organize our analysis of the points accordingly.

Point I

Under the Missouri Constitution, no "proposed amendment shall contain more than one amended and revised article of this constitution, or one new article which shall not contain more

than one subject and matters properly connected therewith." Mo. Const. art. XII, § 2(b). "A bill does not violate the single subject requirement [s]o long as the matter is germane, connected, and congruous." *Byrd v. State*, 679 S.W.3d 492, 494 (Mo. banc 2023) (citation and internal quotation marks omitted). Stated otherwise, "the test for whether a bill addresses a single subject is not how the provisions relate to each other, but whether the provisions are germane to the general subject of the bill." *Id.* at 494-95 (citation omitted).[4]

"To determine if a proposed constitutional amendment satisfies the single subject requirement, this Court will review the provisions of the proposal to see if all matters included relate to a readily identifiable and reasonably narrow central purpose." *Coleman v. Ashcroft*, 696 S.W.3d 347, 369 (Mo. banc 2024) (citations and internal quotation marks omitted). When conducting this inquiry, the proposal must be "liberally and nonrestrictively construed so that provisions connected with or incident to effectuating the central purpose of the proposal will not be treated as separate subjects."[5] *Id.* (citation omitted). As a result, "successful single subject challenges are a rarity." *Sweeney v. Ashcroft*, 652 S.W.3d 711, 730 (Mo. App. W.D. 2022). For

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[4] The same language is used, and the same standard applies, to single subject objections in both legislation and proposed constitutional amendments cases.

[5] Fitz-James argues that because this case involves a legislatively-referred proposal—as opposed to an initiative petition proposed by the voters—there is no need to liberally apply the single subject test, and, instead, the General Assembly must strictly comply with the single subject requirement. In *Coleman v. Ashcroft*, 696 S.W.3d 347, 369 (Mo. banc 2024), the Missouri Supreme Court articulated the "liberal[] and nonrestrictive[]" inquiry it utilizes when reviewing whether the provisions of "a proposed constitutional amendment"—without distinguishing between an amendment proposed by the General Assembly or the voters—adhere to the single subject requirement. Throughout its discussion, the Missouri Supreme Court cites to the single subject requirement enumerated in both article III, section 50, (applying to initiative petitions), and article XII, section 2(b), (applying to the submission of amendments proposed by the General Assembly *or* by the initiative). *See id.* at 369-71. Thus, without any clear distinction between the level of deference that should be utilized when analyzing a proposed amendment by either the General Assembly or the voters, we will "liberally and nonrestrictively construe[]" the proposal's language, as the Missouri Supreme Court instructs. *Id.* at 369.

instance, in *Ritter*, we concluded that even "multiple, discrete provisions" satisfied the single subject requirement because they still related to a single central purpose. *See id.*; *Ritter v. Ashcroft*, 561 S.W.3d 74, 80-81, 86 (Mo. App. W.D. 2018) (finding topics such as prohibiting legislators and legislative employees from accepting gifts of a particular value from paid lobbyists and modifying the apportioning procedure for House and Senate Districts to be sufficiently related to the central purpose of "regulating the legislature to limit the influence of partisan or other special interests").

The General Assembly titled HJR 73, "Submitting to the qualified voters of Missouri an amendment repealing Section 36 of Article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to reproductive health care." This title is consistent with our reading of the purpose of HJR 73, and therefore, our review requires us to "liberally and nonrestrictively construe[]" HJR 73 to determine whether its provisions are "connected with or incident to" its purpose, which we determine to be "reproductive health care." *See Coleman*, 696 S.W.3d at 369 (citation omitted). Fitz-James contends that two provisions of HJR 73 are not within the subject of reproductive health care and, thus, HJR 73 violates the single subject requirement. First, HJR 73's prohibition on "gender transition" procedures for minors in

subsection 9[6] and, second, HJR 73's venue and notice requirements for challenges to the validity of state laws which relate to reproductive health care in subsection 10.[7]

Construing HJR 73 liberally and nonrestrictively, we conclude that subsection 9 does not violate the single subject requirement. The United States Supreme Court has recognized that gender transition surgeries may affect the ability to reproduce. *United States v. Skrmetti*, 605 U.S. 495, 505-06 (2025). *See also Eknes-Tucker v. Governor of Alabama*, 80 F.4th 1205, 1225 (11th Cir. 2023) (stating there may be a risk of "loss of fertility and sexual function" related to medications for the purpose of gender transition). Because gender transition surgeries or hormone therapies may affect the ability to reproduce, gender transition surgeries and hormone therapies may be connected with, or incident to, reproductive health care. *See* Mo. Const. art. I, § 36.2 (relating reproductive health care to "all matters . . . including but not limited to prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions").

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[6] Subsection 9 of HJR 73 states:

> No gender transition surgeries shall be knowingly performed on children under eighteen years of age, and no cross-sex hormones or puberty-blocking drugs shall be knowingly prescribed or administered for the purpose of gender transition to children under eighteen years of age. The provisions of this section shall not apply to the use of such surgeries, drugs, or hormones to treat children born with a medically verifiable disorder of sex development or to treat any infection, injury, disease, or disorder unrelated to the purpose of a gender transition.

[7] Subsection 10 of HJR 73 states:

> Any action challenging the validity of any state law relating to reproductive health care shall be brought in the Circuit Court of Cole County, Missouri. If a pleading, written motion, or other paper drawing into question the constitutionality of a state statute does not include the state, one of its agencies, or one of its officers or employees in an official capacity, the party bringing the action shall file a notice of constitutional question and serve it on the attorney general and the attorney general shall have the right to intervene in the litigation.

We similarly conclude that subsection 10 relates to reproductive health care. In *Coleman*, the Missouri Supreme Court considered similar language when evaluating whether Amendment 3 violated the single subject requirement. *Coleman*, 696 S.W.3d at 369. The Court acknowledged that the purpose of Amendment 3 was to "protect the right to reproductive freedom," and it reasoned that two subsections which established the standard for judicial review were sufficiently related to that purpose because they "serve[d] to protect the right." *Id.* *See Buchanan v. Kirkpatrick*, 615 S.W.2d 6, 13-14 (Mo. banc 1981) (finding proposed amendment pertaining to the limitation of taxes and government expenditures, which included provision relating to standing in court to enforce the act, did not violate single subject requirement). Because subsection 10 explicitly concerns challenges to the validity of state laws "relating to reproductive health care," the venue and notice requirements are sufficiently "germane, connected, and congruous" to reproductive health care. *See Byrd*, 679 S.W.3d at 494 (citation omitted).

Point I is denied.

Points II Through VII

Points II through VII address the fairness and sufficiency of the Secretary of State's summary statement.

Under section 116.155.1, "[t]he general assembly may include the official summary statement and a fiscal note summary in any statewide ballot measure that it refers to the voters." "The official summary statement approved by the general assembly shall, taken together with the approved fiscal note summary, be the official ballot title" and "[t]he title shall be a true and impartial statement of the purposes of the proposed measure in language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure." §

116.155.2. The summary statement should accurately reflect the legal and probable effects of the proposal, and should inform voters of the initiative's central features. *Pippens*, 606 S.W.3d at 701 (citations omitted). Therefore, "[s]ometimes it is necessary for the . . . summary statement to provide a context reference that will enable voters to understand the effect of the proposed change." *Id.* at 707 (quoting *Brown v. Carnahan*, 370 S.W.3d 637, 654 (Mo. banc 2012)). Additionally, the summary statement shall contain no more than fifty words, excluding articles.[8] *Copenhaver v. Ashcroft*, 697 S.W.3d 601, 606 (Mo. App. W.D. 2024). To adhere to the word limit, the summary statement "need not set out the details of the proposal to be fair and sufficient." *Pippens*, 606 S.W.3d at 702 (citations omitted).

Section 116.190 establishes the right to challenge the sufficiency of an official ballot title and the summary statement contained therein. *Fitzpatrick*, 640 S.W.3d at 116. "[T]he party challenging the language of the summary statement bears the burden to show that the language is insufficient or unfair." *Copenhaver*, 697 S.W.3d at 606 (quoting *Pippens*, 606 S.W.3d at 701). "Insufficient means inadequate; especially lacking adequate power, capacity, or competence." *Id.* (citation omitted). "The word 'unfair' means to be marked by injustice, partiality, or deception." *Id.* (citation omitted). When evaluating the summary statement, we will consider whether it "contains an impartial, intelligible, and accurate summary of the [ballot measure]'s central purpose and effects." *Pippens*, 606 S.W.3d at 702 (citation omitted).

[8] The current version of section 116.155, amended August 28, 2025, allows the summary statement to include no more than one hundred words. We will apply the previous version of section 116.155 imposing a fifty-word limit which the parties adhere to, as that was the limitation in effect at the time HJR 73 was passed. Although the parties assume that the fifty-word limit contained in the pre-August 28, 2025, version of section 116.155 continues to govern, as explained in footnote 2, they simultaneously assume that the post-August 28, 2025, version of section 116.190 applies to challenges to the ballot language.

Bullet Point Four: "Repeal Article I, section 36, approved in 2024; allow abortions for medical emergencies, fetal anomalies, rape, and incest"

Points II through IV set out Fitz-James's claims of error concerning bullet point four's unfairness and insufficiency. In Point II, Fitz-James argues that the circuit court erred in finding bullet point four to be fair and sufficient because a summary statement must inform voters that they are repealing an amendment that they just approved, yet bullet point four fails to meaningfully inform voters that HJR 73 asks voters to reconsider and eliminate the recently approved "Right to Reproductive Freedom Initiative."

We previously held that "[w]here a ballot measure's adoption would directly nullify or substantially alter existing legal rules, reference to the measure's effect on existing law may often be necessary to adequately inform voters of 'the legal and probable effects of the propos[al].'" *Id.* at 708. As was the case in *Pippens*, we are once again reviewing a proposed measure for the next general election which, if enacted, would substantially alter or undo a voter-approved measure from the immediately preceding general election. *See id.* at 712. There, one of the bullet points from the summary statement for Senate Joint Resolution 38 (SJR 38) challenged on appeal read, in relevant part: "Create citizen-led independent bipartisan commissions to draw state legislative districts . . . ." *Id.* at 706. Among other problems, we found the bullet point to be flawed because it failed to make any reference to SJR 38's elimination of the office of Nonpartisan State Demographer—one of the primary features of the redistricting process adopted by voters in the previous general election. *Id.* We pointed out that the Secretary of State even acknowledged in its brief that the Nonpartisan State Demographer was central to the voter-approved redistricting process, and that a central feature of SJR 38 was to transfer the Nonpartisan State Demographer's redistricting responsibilities to bipartisan redistricting commissions. *Id.* Thus, given the centrality of the Nonpartisan State Demographer

to the voter-enacted reform in the previous general election, its elimination was also a central feature of SJR 38 which needed to be referenced in the summary statement to give voters a meaningful sense of what SJR 38 would accomplish. *Id.* at 707 (citation omitted). We accordingly certified a revised summary statement which replaced the challenged bullet point with, in relevant part: "Change the redistricting process voters approved in 2018 by: [] transferring responsibility for drawing state legislative districts from the Nonpartisan State Demographer to Governor-appointed bipartisan commissions . . . ." *Id.* at 713.

In *Cures Without Cloning*, this Court was also faced with evaluating an initiative proposal which, if enacted, would amend a constitutional amendment approved by voters at the previous general election. *Cures Without Cloning v. Pund*, 259 S.W.3d 76, 78, 82 (Mo. App. W.D. 2008). We explained that voters would likely be confused by a ballot title that stated the amendment would "*repeal* the ban on human cloning," when the initiative proposal did not actually contain any such language and, instead, one purpose was to expand the definition of cloning to increase the number of cases to which the ban would apply. *Id.* at 82 (emphasis added). The summary statement we certified to the Secretary of State stated, in relevant part: "Shall the Missouri Constitution be amended to *change* the current ban on human cloning or attempted cloning to limit Missouri patients' access to stem cell research, therapies and cures approved by voters in November 2006 . . . ." *Id.* at 82-83 (emphasis added) (discussing the proposed changes to the voter-approved ban on cloning included limiting access to currently legal stem cell research, cures, and therapies; imposing civil and criminal penalties; and prohibiting the use of public funds for research that was permitted at the time).

Like *Pippens*, the centrality of the fundamental right to reproductive freedom to the constitutional amendment approved by voters in 2024 makes its elimination a central feature of

HJR 73 which must be referenced in the summary statement. *See Pippens*, 606 S.W.3d at 707. It is undeniable that the purpose of Amendment 3 was "to protect the right to reproductive freedom." *Coleman*, 696 S.W.3d at 369. As the Missouri Supreme Court explained:

> Section 1 of [Amendment 3] explicitly states that purpose [to protect the right to reproductive freedom] and, in this case, that purpose is also the constitutional "single subject" to which all the other proposed provisions relate or are properly connected. Section 2 of [Amendment 3] establishes and defines the right, and the remaining six sections merely explain how the right is to be implemented and protected. Sections 3 and 4 serve to protect the right by establishing the standard for judicial review. Sections 5 and 6 also work to protect the right by prohibiting the prosecution or discrimination of a person for obtaining, providing, or assisting in reproductive healthcare. Finally, section 7 is a severability clause, and section 8 provides definitions for terms used in [Amendment 3].

Id. HJR 73 eliminates the fundamental right as established by Amendment 3, and, in its place, places more limitations on the circumstances under which an abortion may be performed and allows the General Assembly to enact laws broadly regulating abortions, abortion facilities, and abortion providers.[9]

Even when the proposal in *Cures* would not fully repeal the voter-approved ban on human cloning if it were enacted, we explained that it was nevertheless "incumbent upon the Secretary in the initiative process to promote an informed understanding of the probable effect of the proposed amendment." *Cures*, 259 S.W.3d at 82. Upon comparing the language of bullet point four with the summary statements we certified in *Pippens* and *Cures*, we conclude that the current language does not "provide a context reference that will enable voters to understand the

[9] Currently, article I, section 36, permits the General Assembly to enact laws regulating the provision of abortion *after* fetal viability "provided that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to protect the life or physical or mental health of the pregnant person." Mo. Const. art. I, § 36.4. HJR 73 removes the restriction on the General Assembly's ability to enact laws regulating abortion only *after* fetal viability, replacing it with the ability to enact laws regulating the provision of all abortions, abortion facilities, and abortion providers.

effect of [repealing article I, section 36],” and is likely to confuse voters. *Pippens*, 606 S.W.3d at 707 (citation omitted). *See Cures*, 259 S.W.3d at 82.

Fitz-James suggests multiple revisions to bullet point four to which we now turn. First, Fitz-James argues that using “article I, section 36” to reference the voter-approved amendment in the 2024 general election does not indicate the provision’s content, is not in the common parlance, and voters will not understand what is meant. Instead, Fitz-James proposes that the summary statement refer to it by its title, “The Right to Reproductive Freedom Initiative.” In both *Pippens* and *Cures* we described the voter-approved measures from the immediately preceding general elections using plain language instead of a legal citation. *See Pippens*, 606 S.W.3d at 713 (“Shall the Missouri Constitution be amended to: . . . Change the redistricting process voters approved in 2018 . . . .”); *Cures*, 259 S.W.3d at 83 (“Shall the Missouri Constitution be amended to change the current ban on human cloning or attempted cloning to limit Missouri patients’ access to stem cell research, therapies and cures approved by voters in November 2006 . . . .”). Therefore, we agree that describing article I, section 36, with plain language is necessary to fairly and sufficiently advise voters of HJR 73’s probable effects.

Next, Fitz-James argues that bullet point four should specifically inform voters that they are being asked to eliminate a voter-approved right. Again, to mirror the revised language in *Pippens* and *Cures*, we agree that bullet point four should be modified to specify article I, section 36, was approved by voters in 2024. *See Pippens*, 606 S.W.3d at 713 (“redistricting process voters approved in 2018”); *Cures*, 259 S.W.3d at 83 (“approved by voters in November 2006”).

Fitz-James also contends that using the word “repeal” is insufficient to inform voters of the effect of HJR 73’s enactment because “repeal” is predominantly used in the legislative and legal context, and she instead suggests using the word “eliminate.” As the Respondents point

out, Fitz-James argued before the circuit court that the "Secretary [of State] is obligated, under *Pippens*, to tell voters that they are being asked to *repeal*, not merely amend, the right to reproductive freedom." The circuit court agreed and, thereafter, the Secretary of State submitted the second revised summary statement which used the word "repeal." Because HJR 73, if enacted, *would* repeal article I, section 36, we conclude that Fitz-James failed to establish that the use of the word "repeal" in this context was not fair and sufficient to accurately reflect the legal and probable effects of the proposal. *See Pippens*, 606 S.W.3d at 701.

Fitz-James additionally argues that by containing two clauses separated by a semi-colon, the bullet point is unclear and could, for example, lead voters to believe that the "repeal of Article I, Section 36" would allow abortions for medical emergencies, fetal anomalies, rape, and incest. As we will address *infra*, article I, section 36, currently guarantees the fundamental right to reproductive freedom, including access to abortions for medical emergencies, fetal anomalies, rape, and incest. Therefore, the second clause of bullet point four falsely implies to voters that access to abortion under the enumerated circumstances would be newly introduced through HJR 73's enactment. *See Pippens*, 606 S.W.3d at 711. In light of the strict fifty-word limit and the need to provide voters with a context reference to aid in their understanding of HJR 73's effect, we find it necessary to revise bullet point four to elaborate upon the current law under article I, section 36. The continued abortion access that HJR 73 proposes, as currently addressed by the second clause of bullet point four, will be included in a separate bullet point for sake of clarity and with greater specificity.

Last, Fitz-James points out that because HJR 73 would repeal a fundamental right, the first bullet point should advise voters of the change to the current law—not the fourth bullet point. We agree. The Respondents argue that *Pippens* forecloses our authority to reorder a

summary statement's bullet points. But, in *Pippens*, we specifically declined to reorder the summary statement's bullet points because we already found them to be fair and sufficient as rewritten and, therefore, we did not find any additional modifications to be necessary after revising the language. *Id.* at 713. Even after revising the language in the bullet points here, we still do not find the summary statement to be fair and sufficient as currently organized. As stated in the General Assembly's title which frames the entire proposed amendment, HJR 73 is being submitted to the voters to repeal and replace article I, section 36. Therefore, we find it to be commonsensical for the General Assembly's purpose in submitting the amendment to the voters to be explained to voters in the first bullet point. This is especially true given that a summary is intended to be a short statement of the amendment's main points "for easier remembering, for better understanding, or for showing the relation of the points." *See id.* at 701 (citations omitted).

Point II is granted.

Next, Fitz-James argues in Point III that the circuit court erred in finding bullet point four to be fair and sufficient because the summary statement is misleading in falsely implying that, for the first time, the Constitution will allow abortions for medical emergencies, fetal anomalies, rape, and incest when "The Right to Reproductive Freedom Initiative" already guarantees such care.

In *Pippens*, we additionally took issue with the redistricting criteria included in the challenged bullet point which stated legislative districts would be drawn "based on one person, one vote, minority voter protection, compactness, competitiveness, fairness, and other criteria." *Pippens*, 606 S.W.3d at 706. We explained that the criteria could easily apply to both the current version of the Constitution and the amended version if the proposal was passed because the

criteria was already in the Constitution. *Id.* at 710. As a result, voters could easily be misled to believe the criteria would only apply if they voted in favor of SJR 38. *Id.* Therefore, the inclusion of the existing redistricting criteria in the summary statement "with the false implication that they are being newly introduced" was unfair and insufficient. *Id.* at 711. We revised the bullet point to remove the redistricting criteria and the revised bullet point read, in relevant part: "Shall the Missouri Constitution be amended to: . . . Change the redistricting process voters approved in 2018 by . . . modifying and reordering the redistricting criteria." *Id.* at 713. *See also Mo. Mun. League v. Carnahan*, 303 S.W.3d 573, 586, 588 (Mo. App. W.D. 2010) (finding summary statement misleading for stating that proposed amendment would "requir[e] . . . that landowners receive just compensation" for the taking of their property, where "the Missouri Constitution has historically and does currently require just compensation for takings").

Here, the Missouri Constitution currently guarantees the fundamental right to reproductive freedom which broadly encompasses the "right to make and carry out decisions about all matters relating to reproductive health care," including abortion care. Mo. Const. art. I, § 36.2. The Constitution currently states that "[t]he right to reproductive freedom shall not be denied, interfered with, delayed, or otherwise restricted unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means." Mo. Const. art. I, § 36.3. Furthermore, the Constitution limits the General Assembly's authority to enact laws regulating the provision of abortion to "after Fetal Viability[10] provided

[10] The Missouri Constitution defines "fetal viability" for purposes of article I, section 36, as "the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures." Mo. Const. art. I, § 36.8(1).

that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to protect the life or physical or mental health of the pregnant person." Mo. Const. art. I, § 36.4. Therefore, current law already guarantees access to abortion through fetal viability, including in cases of medical emergencies, fetal anomalies, rape, and incest. By simply stating that the enactment of HJR 73 would "allow abortions for medical emergencies, fetal anomalies, rape, and incest," without the context regarding the reproductive rights being repealed, the summary statement runs afoul of the same error we identified in *Pippens* and voters could easily be misled to believe abortion access would be newly expanded if the Constitution were amended. In fact, the enactment of HJR 73 would actually narrow the constitutional right of access to abortions to instances of a medical emergency, fetal anomaly, and cases of rape and incest no later than twelve weeks of gestation, as we address *infra*. We agree with Fitz-James that the circuit court erred in finding bullet point four to be fair and sufficient when it misleadingly implies that, for the first time, the Constitution will allow abortions for medical emergencies, fetal anomalies, rape, and incest when such care is already guaranteed under article I, section 36.

Point III is granted.

In her fourth point on appeal, Fitz-James contends that the circuit court erred in finding the fourth bullet point to be fair and sufficient because it does not accurately reflect the legal and probable effects of the measure by omitting that HJR 73, if enacted, would restrict abortions for rape and incest to no later than twelve weeks of gestation.

Again, a summary statement should accurately reflect the legal and probable effects of the proposal, as well as its central features. *Pippens*, 606 S.W.3d at 701 (citations omitted). In *Copenhaver*, we found it necessary to modify a summary statement for its failure to include a

central feature of the proposed amendment. *Copenhaver*, 697 S.W.3d at 607-08. The summary statement challenged on appeal asked voters if "the Missouri Constitution shall be amended to preserve funding of law enforcement personnel" without advising voters that the funding would come from the levying of costs and fees. *Id.* at 607. We explained that the overall purpose of Senate Joint Resolution 71 (SJR 71) was "to declare that the levying of costs and fees for salary and benefits of certain law enforcement personnel falls within the purview of the 'administration of justice.'" *Id.* This purpose was additionally evidenced by the timing of SJR 71's proposal on the heels of a Missouri Supreme Court decision which held that imposing court costs and fees to fund the Missouri Sheriffs' Retirement Fund was not reasonably related to the "administration of justice" and, in effect, unconstitutional. *Id.* To ensure voters were properly informed, we modified the summary statement to read: "Shall the Missouri Constitution be amended to provide that the administration of justice shall include the levying of costs and fees to support salaries and benefits for certain current and former law enforcement personnel?" *Id.* at 608, 610.

In *Fitz-James*, this Court also evaluated the summary statements for six initiative petitions which were each a proposed version of Amendment 3. *Fitz-James*, 678 S.W.3d at 198-202. The Secretary of State's summary statements for each version provided that the initiatives would "allow for dangerous, unregulated, and unrestricted abortions, from conception to live birth, without requiring a medical license or potentially being subject to medical malpractice[.]" *Id.* at 200, 204. We concluded that the bullet point did not fairly and sufficiently summarize the proposed initiatives for multiple reasons. *Id.* at 208. For one, each proposed initiative allowed for abortion to be regulated to some degree, contrary to the Secretary of State's suggestion that abortion would be "unregulated" and "unrestricted" "from conception to live birth." *Id.* at 204. Although the strict scrutiny standard would apply under one version of the proposed initiative,

we noted that such a standard does not, itself, prevent courts from upholding laws and does not eliminate the government's authority to regulate abortions. *Id.* at 204-05. Additionally, that version of the initiative still permitted the government to impose health and safety regulations and require abortions to be performed in accordance with widely-accepted medical standards. *Id.* at 205-06. The other five versions of the proposed amendment permitted the General Assembly to "enact laws that regulate the provision of abortion after fetal viability or [twenty-four] weeks of gestation except where a treating health professional deems in good faith judgment that an abortion is needed to protect the life or physical or mental health of the pregnant person." *Id.* at 206 (internal quotation marks omitted). Based on the language explicitly permitting legislative regulation of abortion access in every version of the proposed initiative, the Secretary of State's claim that the initiatives would "allow for dangerous, unregulated, and unrestricted abortions" inaccurately reflected the legal and probable effects of the proposal in light of the government's ability to restrict or ban abortions after twenty-four weeks of gestation, with exceptions, and regulate any abortions necessary under the exceptions without needing to satisfy heightened scrutiny. *Id. See also Seay v. Jones*, 439 S.W.3d 881, 890-93 (Mo. App. W.D. 2014) (finding summary statement to be insufficient and unfair where it stated that proposed amendment would permit early voting, without advising voters that early voting would only be permitted if authorized by legislative appropriation).

We agree with Fitz-James that the circuit court erred in finding the fourth bullet point to be fair and sufficient when it does not accurately reflect the legal and probable effects of the measure by omitting that HJR 73, if enacted, would restrict abortions for rape and incest to no later than twelve weeks of gestation. Just like *Copenhaver* which failed to advise voters that the source of funding for law enforcement personnel would come from levying costs and fees, bullet

point four crucially excludes that abortions for rape and incest will be permitted "no later than twelve weeks gestational age of the unborn child." The excluded language specifically modified a central purpose of the proposal in *Copenhaver* (*i.e.*, funding of law enforcement personnel) and in the case before us (*i.e.*, access to reproductive health care, including abortion), and, thus, it is not superfluous information. And just as the original summary statements in *Fitz-James* excluded the proposed restrictions on abortion access (*i.e.*, strict scrutiny and the ability to restrict or ban after fetal viability or twenty-four weeks of gestation) which inaccurately insinuated unfettered abortion access, the exclusion of the twelve-week time restriction in HJR 73's summary statement could inaccurately insinuate to voters that abortion access would be more expansive in cases of rape and incest than actually permitted under HJR 73.

Point IV is granted.

Bullet Point One: "Guarantee women's medical care for emergencies, ectopic pregnancies, and miscarriages"

Next, Fitz-James contends that the circuit court erred in finding the first bullet point to be fair and sufficient because it falsely implies that HJR 73 would newly "guarantee" access to care for medical emergencies, ectopic pregnancies, and miscarriages when "The Right to Reproductive Freedom Initiative" currently guarantees such care.

We agree. Again, a summary statement which falsely implies a measure will change existing law, when it will not, may be misleading. *McCarty v. Mo. Sec'y of State*, 710 S.W.3d 507, 516 (Mo. banc 2025) (discussing *Mo. Mun. League*, 303 S.W.3d at 588, which modified a summary statement because it inaccurately suggested that just compensation for takings would be added to the Constitution when it was already required); *Pippens*, 606 S.W.3d at 711 (discussing the inclusion of existing redistricting criteria which inaccurately implied the criteria was being newly introduced). In *Missouri Municipal League*, we struck the language suggesting

that restrictions on just compensation would be newly added to the Constitution. *Mo. Mun. League*, 303 S.W.3d at 586-88 (changing "Requiring that any taking of property be necessary for public use and that landowners receive just compensation[,]" to "Requiring that any taking of property be necessary for a public use[.]").

The Missouri Constitution currently guarantees the fundamental right to make decisions relating to reproductive health care which includes, but is not limited to, prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions. Mo. Const. art. I, § 36.2. Therefore, the summary statement's implication that amending the Constitution will change the existing law and newly guarantee access to care for medical emergencies, ectopic pregnancies, and miscarriages, as if it is not guaranteed now, makes it unfair and insufficient. Additionally, to guarantee is "[t]o promise that a contract or legal act will be duly carried out" or "[t]o give security to." *Guarantee*, Black's Law Dictionary (12th ed. 2024). Here, bullet point one reads: "*Guarantee women's medical care* for emergencies, ectopic pregnancies, and miscarriages." (Emphasis added). In other words, the language erroneously suggests that, under HJR 73, the provision of the medical care, itself, is promised or secured. *See id.* However, subsection 8 of HJR 73 actually states: "A woman's ability to access health care in cases of miscarriages, ectopic pregnancies, and other medical emergencies *shall not be infringed by the state*." (Emphasis added). Thus, HJR 73 prevents the State from interfering with an individual's ability to access such care, but does not guarantee the care itself. For all of the above reasons, the language suggesting that amending the Missouri Constitution will specifically guarantee such medical care is misleading and must be struck.

Point V is granted.

Bullet Point Two: "Ensure women's safety during abortions"

Regarding bullet point two, Fitz-James argues that the circuit court erred in finding it to be fair and sufficient because it does not accurately reflect the legal and probable effects of the measure by inaccurately suggesting that HJR 73 would "ensure" women's safety.

To reiterate, a "summary statement should accurately reflect both the legal and probable effects of the propos[al]." *Pippens*, 606 S.W.3d at 701 (citations and internal quotation marks omitted). The summary statement should inform voters of the proposal's central features as a summary is intended to be a "short restatement of the main points (as of an argument) for easier remembering, for better understanding, or for showing the relation of the points." *Id.* (citations and internal quotation marks omitted).

Bullet point two does not restate any of HJR 73's central features. We assume the Secretary of State intended bullet point two to relate to subsection 3 of HJR 73. Subsection 3 provides that "[t]he general assembly may enact laws that regulate the provision of abortions, abortion facilities, and abortion providers to ensure the health and safety of the pregnant mother," and enumerates several laws which may be included. But, bullet point two does not sufficiently summarize subsection 3 because the bullet point does not explain that women's safety would be "ensure[d]" through the potential enactment of legislation regulating abortion.[11] In fact, the entire summary statement is devoid of any language explaining that the General Assembly may enact laws to regulate abortions. We find such language to be necessary in order

[11] The Respondents argue in their briefing that the General Assembly is unable to ensure women's safety because many of the laws regulating health and safety standards for abortions have been enjoined from enforcement due to the passage of article I, section 36. The case cited by the Respondents in support of this assertion is not final, and is only at the preliminary injunction phase before the case is fully litigated. No final injunction has been issued as the Respondents seem to incorrectly argue.

to sufficiently inform voters of HJR 73's legal effects. Accordingly, such revisions will be incorporated into our modified summary statement, *infra*.

Point VI is granted.

Bullet Point Five: "Prohibit sex-change procedures for children"

Fitz-James argues the circuit court also erred in finding that the fifth bullet point is fair and sufficient because a summary statement may not use partisan, biased, or argumentative language, in that the phrase "sex-change procedures" is a politically charged term that does not describe the probable effects of HJR 73.

A summary statement's language should "fairly and impartially summarize the purposes of the measure so that voters will not be deceived or misled." *Fitz-James*, 678 S.W.3d at 208 (citation omitted) (explaining that the phrases "right to life" and "right to choose" are partisan political phrases which, if used in a summary statement, render it unfair and insufficient). In *Fitz-James*, we also explained that the Secretary of State's usage of the phrase "partial birth abortion" is "argumentative, prejudicial, and misleading" because partisan political groups have used it to label certain medical procedures. *Id.* at 209. Upon comparing the distinctions between Missouri's infanticide law and federal law governing "partial-birth abortions," we noted that the phrase does not have a fixed definition and, thus, does not neutrally describe the purpose or probable effects of the initiatives. *Id.*

Subsection 9 states: "No *gender transition surgeries* shall be knowingly performed on children under eighteen years of age, and no cross-sex hormones or puberty-blocking drugs shall be knowingly prescribed or administered for the purpose of gender transition to children under eighteen years of age." (Emphasis added). We first note that gender and sex are not entirely synonymous and should not be used interchangeably. Gender is "the behavioral, cultural, or psychological traits typically associated with one sex," whereas sex is "either of the two major

forms of individuals that occur in many species and that are distinguished respectively as female or male especially on the basis of their reproductive organs and structures." *Gender*, Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/gender; *Sex*, Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/sex. Subsection 9 does not just prohibit surgeries that change the reproductive organs and structures of minors; it also prohibits treatments that promote the transition of gender of minors (that affect the behaviors and psychological traits associated with their sex). The language employed by the Secretary of State is misleading, as it suggests that the prohibition in subsection 9 is narrower than that intended by the General Assembly. Because HJR 73 references surgeries and hormone therapies "for the purpose of gender transition," and not "sex-change procedures," we agree that bullet point five should be revised to restate subsection 9 using the General Assembly's own terminology.

Point VII is granted.

Revised Summary Statement

Before addressing our revised summary statement, the Respondents contend that if this Court believes, as we do, that the summary statement and fair ballot language statement are unfair or insufficient, then the proper remedy is to remand for further proceedings under section 116.190.4. Specifically, the Respondents point out that section 116.190.4 allows the Secretary of State to submit a third revised summary statement and that, during all revisions, the case "shall remain open." *See* § 116.190.4(2)(c)-(e). Section 116.190.4(2)(c) states:

> The secretary of state shall submit a second revised summary statement to the court within five days. If, after submission to the court of a second revised summary statement by the secretary of state, the court finds the second revised summary statement to be sufficient and fair, the court shall certify to the secretary of state that statement and order it to appear on the ballot. If the court finds the second revised summary statement to be insufficient or unfair, the court may offer suggested revisions for the statement to remedy the legal flaws, but it shall, in its

decision, order the secretary of state to write a third revised summary statement that is sufficient and fair.

"The provisions of a legislative act are not read in isolation but construed together . . . ." *R.M.A. by Appleberry v. Blue Springs R-IV Sch. Dist.*, 568 S.W.3d 420, 429 (Mo. banc 2019) (quoting *Bachtel v. Miller Cty. Nursing Home Dist.*, 110 S.W.3d 799, 801 (Mo. banc 2003)). Reviewing section 116.190.4(2) as a whole, it is evident that the provision allowing the Secretary of State multiple opportunities to revise the summary statement applies only during initial proceedings in the circuit court. Section 116.190.4(2)(c) and (d) provide that the circuit court shall determine whether each summary statement prepared by the Secretary of State is sufficient and fair; only after finding three successive revisions to be unfair or insufficient may the circuit court itself "revise the summary statement in a manner that is sufficient and fair." Section 116.190.4(2)(f) then provides that "[a]ny nonprevailing party may make appeals as provided by law only following" a decision by the circuit court either finding one of the Secretary of State's summary statements to be sufficient and fair, *or* the circuit court's preparation of "its own summary statement[.]" Thus, section 116.190.4(2) makes clear that the successive revision process only applies *before* an appeal is taken; nothing in the statute suggests that this Court, or the Missouri Supreme Court, must remand an unfair or insufficient summary statement to the circuit court for further iterations.

The timing requirements specified in section 116.190 confirm that a remand of the sort the Respondents suggest would be infeasible and inconsistent with the legislature's objective of swiftly concluding such ballot-language challenges. In the circuit court's final judgment, it found the second revised summary statement and second revised ballot language statement to be fair and sufficient under sections 116.155 and 116.025. The circuit court thereafter certified the summary statement and ordered it to appear on the ballot, in accordance with section

116.190.4(2)(c). Reading section 116.190.4 in conjunction with 116.190.5 which requires that "[a]ny action brought under this section that is not fully and finally adjudicated within one hundred eighty days of filing, and more than seventy days prior to election in which the measure is to appear, including all appeals, shall be extinguished," we do not see how the procedure suggested by the Respondents could be adhered to within the mandated 180-day timeframe. The petition was filed in the circuit court on July 2, 2025, meaning 154 days elapsed by the time this Court heard oral argument on December 3, 2025. The parties additionally have the right to seek the transfer of this case to the Missouri Supreme Court. *See* § 116.190.4(3). Therefore, remanding this case to allow the Secretary of State to submit a third revised summary statement would effectively run afoul of the timeline mandated by section 116.190.5.

In regard to the case needing to "remain open," we also disagree with the Respondents. Section 116.190 clearly mandates that the case remain open "[d]uring all revisions as provided in this subdivision[.]" § 116.190.4(2)(e). The revisions provided for in the subdivision concluded when the circuit court found the second revised summary statement to be sufficient and fair and certified it to the Secretary of State, allowing Fitz-James to exercise her right to appeal pursuant to section 116.190.4(2)(f). Additionally, section 116.190.4(2)(f) allows appeals only after either a finding by the circuit court that a summary statement was sufficient and fair, or the circuit court orders its own summary statement to be placed on the ballot. Either of these actions makes the judgment final for purposes of appeal.

"[W]here this Court concludes that the summary statement is insufficient or unfair, we 'step into the circuit court's shoes' by virtue of Supreme Court Rule 84.14."[12] *Pippens*, 606 S.W.3d at 713 (quoting *Boeving v. Kander*, 493 S.W.3d 865, 882 (Mo. App. W.D. 2016)). *See*

[12] All rule references are to the Missouri Supreme Court Rules (2025).

Copenhaver, 697 S.W.3d at 610. Rule 84.14 authorizes this court to "give such judgment as the court ought to give," and provides that, "[u]nless justice otherwise requires, the court shall dispose finally of the case." *Boeving*, 493 S.W.3d at 882. We therefore certify the following summary statement for inclusion in the official ballot title for HJR 73 and to appear on the November 2026 general election ballot:

> Shall the Missouri Constitution be amended to:
> - Repeal the 2024 voter-approved Amendment providing reproductive healthcare rights, including abortion through fetal viability;
> - Allow abortions for rape and incest (under twelve-weeks' gestation), emergencies, and fetal anomalies;
> - Allow legislation regulating abortion;
> - Ensure parental consent for minors' abortions;
> - Prohibit gender transition procedures for minors?

In compliance with section 116.155.2, this modified summary statement consists of fifty words or less, excluding articles.

Points VIII Through XI

In points VIII through XI, Fitz-James argues that the circuit court erred in finding the fair ballot language statement to be fair and sufficient. Because the fair ballot language statement tracks the language of the summary statement, Fitz-James's arguments in points VIII through XI similarly mirror her arguments made regarding the summary statement.

The Secretary of State "shall prepare and transmit to the attorney general fair ballot language statements that fairly and accurately explain what a vote for and what a vote against the measure represent." § 116.025. "Such fair ballot language statements shall be true and impartial statements of the effect of a vote for and against the measure in language neither intentionally argumentative nor likely to create prejudice for or against the proposed measure." *Id.*

We utilize the same fairness and sufficiency standard as in our analysis of the summary statement because section 116.025 requires that challenges to fair ballot language statements be

conducted in accordance with section 116.190. *Fitzpatrick*, 640 S.W.3d at 125. For the same reasons discussed *supra*, point VIII, point IX, point X, and point XI are granted.

Revised Fair Ballot Language Statement

Pursuant to our authority under Rule 84.14, we certify the following fair ballot language statement to the Secretary of State:

> A "yes" vote will repeal Article I, Section 36, of the Missouri Constitution approved by the voters in 2024 which provided reproductive healthcare rights, including abortion through fetal viability; continue to ensure women's ability to access medical care for medical emergencies, ectopic pregnancies, and miscarriages; allow legislation to regulate abortion providers and facilities to ensure health and safety; require informed and voluntary consent for an abortion, including parental or judicial consent for minors; allow restriction of abortions to cases of medical emergency, rape and incest under twelve weeks gestation, and fetal anomalies; prohibit public funding of abortions except in limited circumstances; and prohibit gender transition procedures for minors including gender transition surgeries, cross-sex hormones or puberty-blocking drugs, with exceptions for specific medical conditions.
>
> A "no" vote will leave Article I, Section 36, of the Missouri Constitution approved by voters in 2024 in place; will not limit abortion to cases of medical emergency, rape and incest under twelve weeks gestation, and fetal anomalies, but leave access to abortion available through fetal viability; will not prohibit gender transition procedures for minors.
>
> If passed, this measure will not increase or decrease taxes.

Conclusion

The circuit court's judgment is affirmed in part and reversed in part. We certify the revised summary statement and fair ballot language statement to the Secretary of State.

Janet Sutton, Judge

Thomas N. Chapman, P.J., W. Douglas Thomson, J. concur.