

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

ANNA FITZ-JAMES,

Petitioner,

v.

SECRETARY OF STATE DENNY  
HOSKINS,

SERVE:

Missouri Secretary of State's Office  
600 West Main Street  
Jefferson City, Missouri 65101

SENATOR CINDY O'LAUGHLIN,

SERVE:

Missouri Capitol  
201 West Capitol Avenue, Rm. 326  
Jefferson City, Missouri 65101

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

REPRESENTATIVE JONATHAN  
PATTERSON,

SERVE:

Missouri Capitol  
201 West Capitol Avenue, Rm. 308  
Jefferson City, Missouri 65101

and

REPRESENTATIVE ED LEWIS

SERVE:

Missouri Capitol  
201 West Capitol Avenue, Rm. 312  
Jefferson City, Missouri 65101

Respondents.

## **PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

For her Petition for Declaratory Judgment and Injunctive Relief, Dr. Anna Fitz-James states the following:

### **PARTIES**

#### **Petitioner Dr. Anna Fitz-James**

1. Petitioner Dr. Anna Fitz-James is a citizen of the State of Missouri.
2. Petitioner Fitz-James was the proponent of Amendment 3, submitted to, and adopted by, the voters at the November 2024 general election.
3. Petitioner requests a declaratory judgment that House Joint Resolution 73 contains more than one subject and is, therefore, unconstitutional. Petitioner further seeks an injunction barring Respondent Secretary of State from placing the resolution on any election ballot.
4. In the alternative, Petitioner challenges House Joint Resolution 73's summary statement and fair ballot language as insufficient and unfair and requests the Court certify a new, legally compliant summary statement, and new, legally compliant fair ballot language.

#### **Respondent Legislators**

5. Respondent State Senator Cindy O'Laughlin represents Senate District 18 and is the President Pro Tem of the Missouri Senate.
6. Respondent State Representative Jonathan Patterson represents House District 30 and is the Speaker of the Missouri House of Representatives.

7. Respondent State Representative Ed Lewis represents House District 6 and sponsored House Joint Resolution 73.

8. Respondent Legislators maintain their principal offices in Cole County, Missouri.

Respondent Secretary of State Denny Hoskins

9. Respondent Denny Hoskins is the Secretary of State of the State of Missouri.

10. The Secretary of State is charged with certifying official ballot titles for measures that will be voted on by Missouri voters.

11. Respondent Hoskins certified the ballot title at issue in this litigation.

12. Respondent Hoskins drafted the fair ballot language at issue in this litigation.

13. Respondent Hoskins maintains his principal office in Cole County, Missouri.

**FACTUAL ALLEGATIONS**

14. On June 24, 2022, the United States Supreme Court issued its opinion in *Dobbs, et al. v. Jackson Women's Health Organization, et al.*, overruling *Roe v. Wade*.

15. That same day, both the Missouri Attorney General and Governor notified the Revisor of Statutes that *Roe* had been overruled.

16. As a result, the Right to Life of the Unborn Child Act became effective. This Act prohibited abortions from being “performed or induced . . . except in cases of medical emergency.”

17. On November 5, 2024, Missourians voted to adopt “The Right to Reproductive Freedom Initiative” (the “Initiative”), now codified as Article I, Section 36 of the Missouri Constitution.

18. The Initiative established, for the first time in Missouri, a fundamental right to reproductive freedom for all Missourians.

19. The right to reproductive freedom includes explicit protection for Missourians to make decisions concerning prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions. Mo. Const. art. I, § 36.2.

20. The government may not interfere with these rights absent a compelling interest, achieved by the least restrictive means and restrictions on these rights are presumed invalid. Mo. Const. art. I, § 36.3.

21. The Initiative also created explicit protections against prosecution for physicians who assist another person in exercising their right to reproductive freedom with that person’s consent. Mo. Const. art. I, § 36.5.

22. A few months later, on January 28, 2025, Respondent Representative Lewis introduced House Joint Resolution 73 (“HJR 73”) in the Missouri General Assembly.

23. On April 10, 2025, the House Committee on Children and Families voted a House Committee Substitute for HJR 73 “do pass.”

24. On May 14, 2025, the Missouri General Assembly truly agreed and finally passed House Committee Substitute for HJR 73 to be referred to Missouri voters.

25. A true and accurate copy of HJR 73, as truly agreed and finally passed, is attached as **Exhibit 1**.

26. If enacted, HJR 73 would repeal and replace Article I, § 36 of the Missouri Constitution in its entirety.

27. If enacted, HJR 73 would repeal the explicit right of Missourians to make decisions concerning prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions.

28. If enacted, HJR 73 would substantially curtail the circumstances under which individuals can obtain abortions by limiting the availability of abortions to cases of medical emergency, fetal anomaly, rape, or incest *and* by barring any abortions in cases of rape or incest after 12 weeks gestational age.

29. If enacted, HJR 73 would repeal the current strict scrutiny standard and replace it with broad authorization for the legislature to limit access to abortion care.

30. If enacted, HJR 73 would repeal the explicit protection against prosecution afforded to physicians who assist another person in exercising their right to reproductive freedom with that person's consent.

31. If enacted, HJR 73 would prohibit knowingly performing gender transition surgeries on children under eighteen years of age for the purpose of gender transition.

32. If enacted, HJR 73 would prohibit prescribing or administering cross-sex hormones or puberty-blocking drugs for the purpose of gender transition for children under eighteen years of age.

33. On May 30, 2025, the General Assembly sent HJR 73 to Respondent Secretary of State.

34. On May 30, 2025, the Secretary of State forwarded HJR 73 to the State Auditor for preparation of the fiscal note and fiscal note summary.

35. On June 26, 2025, the State Auditor submitted to the Secretary of State the fiscal note and fiscal note summary for the Resolution.

36. On June 27, 2025, following receipt of the fiscal note and fiscal note summary, the Secretary of State certified the official ballot title for HJR 73.

37. A true and accurate copy of the Certification of Official Ballot Title for HJR 73 is attached as **Exhibit 2**.

38. The Secretary of State prepared and certified fair ballot language statements for HJR 73.

39. A true and accurate copy of the fair ballot language for HJR 73 is attached as **Exhibit 3**.

## COUNT I – VIOLATION OF ARTICLE XII, SECTION 2(B) OF THE MISSOURI CONSTITUTION

40. Petitioner incorporates by reference all preceding paragraphs.

41. A ballot measure proposing to amend the Constitution may not contain more than one subject and matters properly connected therewith. *See* Mo. Const. art. XII, § 2(b).

42. The legislative title of HJR 73 is “reproductive health care.”

43. The subject of HJR 73 is “reproductive health care.”



44. HJR 73 contains matters not properly connected to the subject of reproductive health care.

45. First, subsection 9 of the proposed measure addresses “gender transition surgeries,” which subsection 12 defines as a “surgical procedure performed for the purpose of assisting an individual with identifying with and living as a gender different from his or her biological sex.”

46. This definition is expansive, covers a multitude of procedures, and—by its own terms—is not a matter properly connected with the subject “reproductive health care.”

47. Subsection 9 of the proposed measure also addresses prescription of “cross-sex hormones or puberty-blocking drugs,” the latter of which subsection 12 defines as treatments that are “for the purpose of assisting an individual with a gender transition.”

48. Again, this definition is expansive and—by its terms—is not a matter properly connected with the subject “reproductive health care.”

49. Further, subsection 9 of the proposed measure specifically limits the proposed ban on such surgeries, drugs, and hormones to situations in which they are provided for “the purpose of a gender transition,” which is not properly connected with the subject “reproductive health care.”

50. Second, subsection 10 of the proposed measure would require that any lawsuit challenging the validity of a state law “relating to reproductive health care” be filed in Cole County, would require notification of the Attorney General of any “pleading, written motion, or other paper drawing into question the constitutionality of a

state statute,” and would further give the Attorney General the right to intervene in certain lawsuits.

51. Notification of constitutional questions and state intervention in litigation are not matters properly connected with the subject “reproductive health care.” Health care is not generally provided in court rooms.

52. HJR 73 is a ballot measure that contains more than one subject.

53. Petitioner seeks an injunction barring Defendants from placing HJR 73 on any ballot.

54. If an injunction does not issue, Petitioner will suffer irreparable harm through the loss of Petitioner’s tax dollars used to publish and print ballots which include the ballot title for HJR 73 and for the publication costs associated with HJR 73.

55. If an injunction does not issue, Petitioner will also suffer irreparable harm pursuant to Petitioner’s constitutional rights under Article XII of the Missouri Constitution.

56. Petitioner lacks an adequate remedy at law to protect her interests.

57. Petitioner is entitled to declaratory relief that HJR 73 contains more than one subject in violation of Article XII, § 2(b) of the Missouri Constitution.

58. Petitioner is entitled to injunctive relief prohibiting the Secretary of State or any other officers from taking any action to place HJR 73 on any election ballot for consideration by voters.

## **COUNT II – VIOLATION OF SECTION 116.155, RSMO**

59. Petitioner incorporates by reference all preceding paragraphs.



60. The General Assembly is authorized to include a summary statement for any statewide ballot measure it refers to voters. *See* § 116.155, RSMo.

61. That summary statement must be a true and impartial statement of the purposes of the proposed measure. *Id.*

62. The summary statement may be neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure. *Id.*

63. HJR 73's summary statement is not a true and impartial statement of the purposes of the measure.

64. HJR 73's summary statement uses language which is intentionally argumentative and likely to create prejudice for the measure.

65. The summary statement prejudicially and impermissibly fails to advise voters that HJR 73 repeals Article I, Section 36 of the Missouri Constitution and that such provision was just put in place by voters in November 2024. Among other things, the summary statement fails to advise voters that it will repeal a measure they just adopted in the last election cycle. That omission fails to alert voters, among other things that:

a. Adoption of the measure would eliminate Missourians' fundamental right to reproductive freedom, including the presumption of invalidity that pertains to legislative restrictions on such right;

b. Adoption of the measure would eliminate explicit constitutional protections for prenatal care, childbirth, postpartum care, birth control, and respectful birthing conditions; and

- c. Adoption of the measure would eliminate explicit protections against prosecution for physicians who assist another person in exercising their right to reproductive freedom with that person's consent.

66. The summary statement falsely and impermissibly claims HJR 73 changes the law when it does not:

- a. The summary statement impermissibly states that HJR 73 will “guarantee access to care for medical emergencies, ectopic pregnancies, and miscarriages” when such care is already guaranteed and safeguarded from government interference by Article I, Section 36 of the Constitution.

- b. The summary statement impermissibly states that HJR 73 will “guarantee access to care for medical emergencies, ectopic pregnancies, and miscarriages” when the measure does not “guarantee” anyone will have care for medical emergencies, ectopic pregnancies, and miscarriages – it merely prohibits the state from infringing upon access to care in such circumstances.

- c. The summary statement impermissibly states that HJR 73 “allow[s] abortions for medical emergencies, fetal anomalies, rape, and incest” when access to abortion in those instances is already guaranteed by Article I, Section 36 of the Constitution.

67. The summary statement is misleading and inaccurate because it states HJR 73 will “[e]nsure women’s safety during abortions,” even though no provision of HJR 73

would put in place any measure to actually ensure women's safety. Rather, subsection 3 of HJR 73 would merely authorize the General Assembly to enact—in the future, if it wishes—laws regulating abortions and the conditions under which they are provided. Further, the summary statement falsely implies that physicians are *presently* allowed to perform unsafe abortions.

68. The summary statement is misleading and inaccurate because it states—without qualification—that HJR 73 “allow[s] for abortions in cases of medical emergencies, fetal anomalies, rape, and incest . . . .”

69. The summary statement is insufficient and unfair because it fails to advise voters that abortions in the cases of rape and incest will *not* be allowed after 12 weeks gestational age.

70. The summary statement is insufficient and unfair because it states that HJR 73 “ensure[s] parental consent for minors.” Voters reading this bullet point will have no idea what parental consent is being required or why.

71. The summary statement is insufficient and unfair because it states that HJR 73 would “[r]equire physicians to provide medically accurate information” without specifying what physicians are supposedly being required to provide medically accurate information *about*. Further, the summary statement misleadingly suggests that physicians are *presently* authorized to provide false or misleading information to patients.

72. The summary statement is intentionally argumentative and attempts to generate bias in favor of HJR 73 by claiming it would “protect” children from “gender transition.” The word “protect” improperly assumes there is presently something that

children need protection from and falsely implies that the measure would prohibit any and all forms of gender transition, when subsection 9 would prohibit only certain, specified procedures.

73. HJR 73's summary statement is insufficient and unfair. This Court should certify to the Secretary of State a different, statutorily compliant summary.

### **COUNT III – VIOLATION OF SECTION 116.025, RSMO**

74. Petitioner incorporates by reference all preceding paragraphs.

75. The Secretary of State must prepare fair ballot language statements that fairly and accurately explain what a vote for and what a vote against the measure represent. § 116.025, RSMo.

76. Fair ballot language statements must be true and impartial statements of the effect of a vote for and against the measure. *Id.*

77. Fair ballot language statements must use language that is neither intentionally argumentative nor likely to create prejudice for or against the proposed measure.” *Id.*

78. HJR 73's fair ballot language statements do not fairly and accurately explain what a vote for and what a vote against the measure represent.

79. HJR 73's fair ballot language statements are not true and impartial statements of the effect of a vote for and against HJR 73.

80. HJR 73's fair ballot language statements use language which is intentionally argumentative and likely to create prejudice for the measure.

81. The fair ballot language “yes” statement prejudicially and impermissibly fails to advise voters that HJR 73 would repeal Article I, Section 36 of the Missouri Constitution and that such provision was just put in place by voters in November 2024. Among other things, the fair ballot language “yes” statement fails to advise voters:

- a. A “yes” vote would eliminate Missourian’s fundamental right to reproductive freedom including the presumption of invalidity that pertains to legislative restrictions on such rights;
- b. A “yes” vote would eliminate explicit constitutional protections for prenatal care, childbirth, postpartum care, birth control, and respectful birthing conditions; and
- c. A “yes” vote would eliminate explicit protections against prosecution for physicians who assist another person in exercising their right to reproductive freedom with that person’s consent.

82. The fair ballot language “yes” statement falsely and impermissibly claims that a “yes” vote for HJR 73 changes the law when it does not:

- a. The fair ballot language “yes” statement impermissibly states that HJR 73 “would allow abortion in cases of medical emergency, fetal anomaly, rape, and incest” when access to abortions in these cases is already guaranteed by Article I, Section 36 of the Constitution.
- b. The fair ballot language “yes” statement impermissibly states that HJR 73 will “guarantee access to care for ectopic pregnancies, miscarriages, and medical emergencies.” Care for ectopic pregnancies and miscarriages is already



guaranteed and safeguarded from government interference by Article I, Section 36 of the Constitution. Further, the fair ballot language falsely and broadly states that HJR 73 will guarantee access to care for any “medical emergencies,” which suggests it will guarantee healthcare for ailments like broken legs.

c. The fair ballot language “yes” statement impermissibly states that HJR 73 will “guarantee access to care for ectopic pregnancies, miscarriages, and medical emergencies” when the measure does not “guarantee” anyone will have access to any medical care—it merely prohibits the state from infringing upon access to care in such circumstances.

83. The fair ballot language “yes” statement is not a true and impartial statement of what a “yes” vote represents because it states that HJR 73 would “require physicians to provide medically accurate information” without specifying what physicians are supposedly being required to provide medically accurate information *about*. Further, the fair ballot language misleadingly suggests that physicians are *presently* authorized to provide false and misleading information to patients.

84. The fair ballot language “yes” statement is not a true and impartial statement of what a “yes” vote represents because it states that HJR 73 would “require informed and voluntary consent, including parental or judicial consent for minors.” Voters reading this statement will have no idea why such consent is required or why.

85. The fair ballot language “yes” statement is not a true and impartial statement of what a “yes” vote represents because it states that HJR 73 would “authorize laws to regulate abortion providers and facilities to ensure health and safety,” which misleadingly



suggests that abortion providers and facilities are *not* safe. Further, it suggests that the General Assembly is prohibited from passing any laws governing health and safety of abortion facilities and providers and that there are currently no laws governing the health and safety of the provision of abortions.

86. The fair ballot language “yes” statement is intentionally argumentative and attempts to generate bias in favor of HJR 73 by claiming it would “protect” children from “gender transition.” The word “protect” improperly assumes there is presently something that children need protection from.

87. The fair ballot language “no” statement prejudicially, impermissibly, and falsely implies that a “no” vote would *not* allow abortions in cases of medical emergency, fetal anomaly, rape, or incest. Abortions are currently allowed in all of those circumstances. In fact, the effect of a “no” vote would be to protect the rights of Missouri women to access abortion care.

88. The fair ballot language “no” statement is intentionally argumentative and attempts to generate bias in favor of HJR 73 by claiming that children will not be protected if HJR 73 is not approved.

89. The fair ballot language statements are insufficient and unfair and the Court should certify different, statutorily compliant fair ballot language statements.

WHEREFORE, Petitioner prays that this Court:

a. Declare HJR 73 in violation of Article XII, Section 2(B) of the Missouri Constitution and enjoin the Secretary of State and the Secretary’s officers,

agents, servants, employees, and attorneys, and all those persons in active concert or participation with the Secretary from placing it on any election ballot;

b. Alternatively,

i. Declare HJR 73's summary statement unfair and insufficient and certify a new, compliant summary to the Secretary of State;

ii. Declare HJR 73's fair ballot language statements unfair and insufficient and certify new, compliant fair ballot language statements to the Secretary of State; and

c. Grant Petitioner any such other relief this Court deems just and proper.

Respectfully submitted,

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