

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

WISCONSIN JUSTICE INITIATIVE, INC.

a Wisconsin nonstock corporation

PO Box 100705

Milwaukee, WI 53210,

CASE NO.

CASE CLASSIFICATION CODE: 30701

JACQUELINE E. BOYNTON

3945 N Harcourt Place

Shorewood, WI 53211,

DECLARATORY JUDGMENT

JEROME F. BUTING

3390 Muirwood Drive

Brookfield, WI 53045

CRAIG R. JOHNSON

4918 N. Idlewild

Whitefish Bay, WI 53217,

And

SUMMONS

FRED A. RISSER

100 Wisconsin Ave., Unit 501

Madison, WI 53703,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION

212 East Washington Avenue, 3rd floor

Madison, WI 53703,

DEAN KNUDSON in his official capacity as

CHAIR OF THE WISCONSIN

ELECTIONS COMMISSION

212 East Washington Avenue, 3rd floor

Madison, WI 53703,

DOUGLAS LAFOLLETTE in his official capacity as

SECRETARY OF STATE OF WISCONSIN

B41W State Capitol

Madison, WI 53701,

And

JOSH KAUL in his official capacity as
ATTORNEY GENERAL OF WISCONSIN
17 West Main Street
Madison, Wisconsin 53703,

Defendants.

THE STATE OF WISCONSIN,

To each person named above as a Defendant:

You are hereby notified that the Plaintiffs named above have filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action. Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Dane County Courthouse, Room 1000, 215 S. Hamilton Street, Madison, WI 53703, and to Attorney Dennis M Grzezinski, Plaintiff's attorney, whose address is 1845 N. Farwell Avenue, Suite 202, Milwaukee, WI 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: December 18, 2019.

Electronically signed by Dennis M. Grzezinski
Dennis M. Grzezinski
Attorney for Plaintiffs
State Bar No. 1016302.
Law Office of Dennis M Grzezinski

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And

FRED A. RISSER

100 Wisconsin Ave., Unit 501

Madison, WI 53703,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION

212 East Washington Avenue, 3rd floor

Madison, WI 53703,

DEAN KNUDSON in his official capacity as

CHAIR OF THE WISCONSIN

ELECTIONS COMMISSION

CASE NO.

CASE CLASSIFICATION CODE: 30701

DECLARATORY JUDGMENT

COMPLAINT

212 East Washington Avenue, 3rd floor
Madison, WI 53703,

DOUGLAS LAFOLLETTE in his official capacity as
SECRETARY OF STATE OF WISCONSIN
B41W State Capitol
Madison, WI 53701,

And

JOSH KAUL in his official capacity as
ATTORNEY GENERAL OF WISCONSIN
17 West Main Street
Madison, Wisconsin 53703,

Defendants.

**COMPLAINT FOR DECLARATORY JUDGMENT, TEMPORARY AND PERMANENT
INJUNCTION**

Plaintiffs Wisconsin Justice Initiative, Inc., Jacqueline E. Boynton, Jerome F. Buting, Craig R. Johnson, and Fred A. Risser, by counsel, bring this action for declaration of rights and permanent injunction against defendants, Wisconsin Elections Commission, Dean Knudson, Douglas LaFollette, and Josh Kaul, to prevent the Commission from placing upon the ballot a question devised by the 2019 Wisconsin State Legislature and to preclude tabulation of votes by the Commission or others on that question or any certification of votes by the Commission or by defendant LaFollette on that question. As grounds, plaintiffs state that the question does not meet the requirements of Wisconsin Constitution article XII, section 1. A vote on an invalid question, because it involves expenditure of public funds and impacts the rights of voters statewide, would constitute irreparable injury.

Pursuant to Wis. Stats. §813.02, Plaintiffs request a temporary injunction and expedited review. Because of time constraints relating to the April 2020 ballot and election, the Court must act promptly to prevent a futile and costly act.

PARTIES

1. Plaintiff Wisconsin Justice Initiative, Inc. (“WJI”), is a Wisconsin nonprofit, nonstock corporation operating under 26 U.S.C. § 501(c)(3), at P.O. Box 100705, Milwaukee, Wisconsin 53210. WJI has standing to sue and be sued in its own name. WJI’s mission is to educate the public about matters relating to Wisconsin’s justice system and to advocate for a fair system with improved outcomes for the citizens of Wisconsin.

2. Plaintiff Jacqueline E. Boynton is a resident and citizen of the State of Wisconsin residing at 3945 N Harcourt Place, Shorewood, WI 53211, and pays taxes and votes in the Village of Shorewood in the State of Wisconsin.

3. Plaintiff Jerome F. Buting is a resident and citizen of the State of Wisconsin residing at 3390 Murwood Drive, Brookfield, WI 53045, and pays taxes and votes in the City of Brookfield in the State of Wisconsin.

4. Plaintiff Craig R. Johnson is a resident and citizen of the State of Wisconsin residing at 4918 N. Idlewild, Whitefish Bay, WI 53217, and pays taxes and votes in the Village of Whitefish Bay in the State of Wisconsin.

5. Plaintiff Fred Risser is a resident and citizen of the State of Wisconsin residing at 100 Wisconsin Ave., Unit 501, Madison, WI 53703, who pays taxes and votes in the City of Madison in the State of Wisconsin. He is a Wisconsin State Senator and represents the 26th state senatorial district in Wisconsin.

6. Defendant Wisconsin Elections Commission (“Commission”) is a state government body created under 2015 Wisconsin Act 118 that administers and enforces Wisconsin elections law. The Commission maintains its office at 212 East Washington Avenue, Madison, Wisconsin. Among the Commission’s duties is the certification to the county clerks of Wisconsin of the text of any ballot question formulated by the Wisconsin State Legislature and to certify the

vote on the ballot question to the Secretary of State. Upon certification, if a majority of voters favor the amendment, it becomes part of the Wisconsin Constitution without any further intervention by government agents.

7. Defendant Dean Knudson is sued in his official capacity as chairperson of the Commission. Knudson's office is that of the Commission at 212 East Washington Avenue, Madison, Wisconsin.

8. Defendant Douglas LaFollette is sued in his official capacity as the duly elected Secretary of State of the State of Wisconsin. He maintains an office at B41W State Capitol, Madison, Wisconsin. LaFollette is charged with maintaining records of the official laws of the Wisconsin State Legislature.

9. Defendant Josh Kaul is sued in his official capacity as the duly elected Attorney General of the State of Wisconsin. He is a resident of Madison, Wisconsin, and maintains an office at 17 West Main Street, Madison, Wisconsin. Kaul is charged with providing the electorate with certain notice regarding proposed constitutional amendments and enforcing Wisconsin laws.

JURISDICTION AND VENUE

10. An actual and justiciable controversy exists. The Commission and Knudson have no discretion to refuse to act. They are compelled to act by Wisconsin Constitution article XII, section 1, and certain Wisconsin Statutes to submit the proposed constitutional amendment discussed below to the voters by ballot in April 2020.

11. The Court has jurisdiction to declare rights and law pursuant to Wisconsin Statutes section 806.04(1) and to grant preliminary and permanent injunctive relief under Wisconsin Statutes sections 813.01 and 813.02.

12. Venue lies in this Court pursuant to Wisconsin Statutes section 801.50(2)(c) because the primary offices of the defendants are located within Dane County.

CONSTITUTIONAL AND STATUTORY LANGUAGE

13. Article I, section 7 of the Wisconsin Constitution reads in pertinent part:

In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment, or information, to a speedy public trial by an impartial jury

14. Article I, section 8 of the Wisconsin Constitution reads in pertinent part that “[n]o person may be held to answer for a criminal offense without due process of law.”

15. Article I, section 9m of the Wisconsin Constitution reads:

This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law: timely disposition of the case; the opportunity to attend court proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant; reasonable protection from the accused throughout the criminal justice process; notification of court proceedings; the opportunity to confer with the prosecution; the opportunity to make a statement to the court at disposition; restitution; compensation; and information about the outcome of the case and the release of the accused. The legislature shall provide remedies for the violation of this section. Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law.

Article I, section 9m was added to the Wisconsin Constitution by amendment in 1993.

16. Article XII, section 1 of the Wisconsin Constitution reads:

Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election; and if, in the legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such

amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the constitution; provided, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.”

17. At time of the 1993 constitutional amendment that added article I, section 9m, “victim” as defined in Wisconsin Statutes section 950.02 meant “a person against whom a crime has been committed.”

18. Amendment V of the United States Constitution reads in pertinent part: “No person shall . . . be deprived of life, liberty, or property, without due process of law.”

19. Amendment VI of the United States Constitution reads:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

20. Protection of the rights of the accused under Amendments V and VI of the United States Constitution were later extended to the States by Amendment XIV.

21. Wisconsin Statutes section 5.64(2) provides that for any proposed constitutional amendment “[t]he ballot shall give a concise statement of each question in accordance with the act or resolution directing submission in the same form as prescribed by the commission under s. 7.08(1)(a).”

22. Wisconsin Statutes section 7.08(1)(a) provides that the Commission prescribes all official ballot forms necessary under pertinent statutes, including Wisconsin Statutes chapter 5, “to harmonize with legislation.”

23. Wisconsin Statutes section 13.175 states that proposed constitutional amendments to be submitted to the voters for their approval “shall include a complete statement of the

referendum question upon which the voters shall be requested to vote in the form prescribed under s. 5.64(2).”

24. Wisconsin Statutes section 8.37 provides that unless “otherwise required by law, all proposed constitutional amendments and any other measure or question that is to be submitted to a vote of the people . . . shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election at which the amendment, measure or question will appear on the ballot.”

25. Wisconsin Statutes 10.01 and 10.06 require certain notices of statewide referendums, including proposed constitutional amendments, which must contain an explanatory statement prepared by the attorney general regarding the effect of a “yes” or “no” vote.

26. Wisconsin Statutes section 7.70 provides that the Commission shall record election results by counties and file and preserve the statements, the chairperson of the commission or his or her designee shall publicly canvass the returns and certify them by May 15 following a spring election, and the chairperson of the commission or his or her designee shall examine and state the total number of votes cast for any referenda questions submitted by the legislature. Further, the section provides

Whenever a referendum question submitted to a vote of the people is approved, the commission shall record it and the secretary of state shall have the record bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislature and have the record published with the laws thereof. Whenever a constitutional amendment or other statewide validating or ratifying referendum question which is approved by the people does not expressly state the date of effectiveness, it shall become effective at the time the chairperson of the commission or the chairperson’s designee certifies that the amendment or referendum question is approved.

ACTIONS OF THE WISCONSIN LEGISLATURE

27. Under article XII, section 1 of the Wisconsin Constitution, amendments to the Constitution must be adopted by two successive legislatures and then ratified by the electorate in a statewide election.

28. The 2017 Wisconsin State Legislature adopted on first consideration a proposal set forth in 2017 Senate Joint Resolution 53 to amend the Wisconsin Constitution. The Wisconsin Senate adopted the proposal on or about November 7, 2017, and the Wisconsin Assembly adopted the proposal on or about November 9, 2017, rendering the proposed constitutional amendment eligible for second consideration by the 2019 Wisconsin State Legislature.

29. The proposal, published as 2017 Enrolled Joint Resolution 13, provides certain constitutional rights to crime victims.

30. The proposed constitutional amendment in 2017 Enrolled Joint Resolution 13, informally known as “Marsy’s Law,” was the brainchild and personal cause of billionaire and now convicted drug felon Henry Nicholas III.

31. In May 2019, the 2019 Wisconsin State Legislature adopted on second consideration the proposal to amend the Wisconsin Constitution that had been adopted in 2017 Enrolled Joint Resolution 13, providing certain constitutional rights to crime victims. The Wisconsin Senate adopted the proposal, 2019 Senate Joint Resolution 2, on second consideration on or about May 15, 2019, and the Wisconsin Assembly adopted the proposal on second consideration on or about May 15, 2019. The approved proposal on second consideration was published as 2019 Enrolled Joint Resolution 3 and is identical to 2019 Senate Joint Resolution 2.

32. The proposed amendment to the Wisconsin Constitution as set forth in 2019 Senate Joint Resolution 2 and 2019 Enrolled Joint Resolution 3 (the “proposed amendment”) reads as set forth in Exhibit 1 to this Complaint.

33. In 2019 Enrolled Joint Resolution 3, the 2019 Wisconsin State Legislature directed that the proposed amendment to the Wisconsin Constitution be submitted to a vote of the people at the election to be held on the first Tuesday in April 2020.

34. In 2019 Enrolled Joint Resolution 3, the 2019 Wisconsin State Legislature further directed that the proposed amendment to the Wisconsin Constitution be submitted to the people for ratification by statement on the ballot by question as follows:

QUESTION 1: “Additional rights of crime victims. Shall section 9m of article I of the constitution, which gives certain rights to crime victims, be amended to give crime victims additional rights, to require that the rights of crime victims be protected with equal force to the protections afforded the accused while leaving the federal constitutional rights of the accused intact, and to allow crime victims to enforce their rights in court?”

(“Question 1.”)

FIRST CLAIM FOR RELIEF
(FAILURE TO INFORM THE VOTING PUBLIC OF THE NATURE OF THE
EXPANDED VICTIMS’ CONSTITUTIONAL RIGHTS THAT THE AMENDMENT
CREATES, AND THAT IT EXPANDS THE CONSTITUTIONAL DEFINITION OF
CRIME VICTIM, IN VIOLATION OF WIS. CONST. ART. XII, § 1)

35. Plaintiffs reallege paragraphs 1 through 34 above as though fully set forth at length herein.

36. The proposed constitutional amendment in 2019 Enrolled Joint Resolution 3 amends and expands the rights of crime victims. The proposed amendment includes 16 categories of new or expanded constitutional rights for crime victims and alleged crime victims, which new or expanded rights do not exist in article 1, section 9m as it exists today. In addition, a victim is entitled to seek enforcement of each of these rights at any time (either personally, by an attorney or by other lawful representative) in any circuit court or other competent authority, which are required to act promptly on such request. Victims may obtain review of all adverse decisions concerning their rights as victims by filing petitions for supervisory writ in the court of appeals and supreme court. While stating that the amendment is not intended to afford party status in a

proceeding to any victim, the rights which it guarantees amount to making a victim a party in all but name.

37. The proposed constitutional amendment in 2019 Enrolled Joint Resolution 3 also amends and expands the definition of crime victims to include many persons who were not previously considered crime victims under the Wisconsin Constitution. It does so by assigning the status of crime victim at the time of the person's "victimization." It also expands the constitutional definition of crime victim to include categories of representatives for victims who are deceased or physically or emotionally unable to exercise their rights, including in addition to a variety of relatives, any person who resided with a deceased victim at the time of death. This would include, among others, unrelated college roommates or apartment mates, and unrelated in-home caretakers if they were living in the deceased victim's home.

38. The Wisconsin State Legislature has a duty to provide a full and fair summary of a proposed constitutional amendment if it chooses to draft a question for submission to the electorate for approval.

39. Question 1 fails to describe the proposed amendment in more detail, including by:
- a) failing to inform the electorate of the nature and scope of the 16 categories of new or expanded constitutional rights that it creates for crime victims;
 - b) failing to inform the electorate that the amendment expands the scope of who is considered a crime victim by the Wisconsin Constitution;
 - c) failing to inform the electorate that it entitles victims to a constitutional status in criminal proceedings that is akin to that of a party.

40. As a result, Question 1 violates article XII, section 1 Of the Wisconsin Constitution, as interpreted by the Supreme Court of Wisconsin in *State ex rel. Ekern v. Zimmerman*, 187 Wis. 180, 204 N.W. 803 (1925), and *State ex rel. Thomson v. Zimmerman*, 264 Wis. 644, 60 N.W.2d

416 (1953), and other pertinent law, by failing to present the real question; failing to reasonably, intelligently, and fairly comprise or reference every essential of the amendment; and failing to fully inform the people of the subject upon which they are required to exercise a franchise.

41. Question 1 also violates article XII, section 1 and Wisconsin law as interpreted by the Supreme Court of Wisconsin in *State ex rel. Ekern v. Zimmerman*, 187 Wis. 180, 204 N.W. 803 (1925), and other pertinent law, by disregarding the plain meaning under our Constitution of “crime victims.”

42. The Wisconsin State Legislature has failed to discharge its duty to provide a full and fair summary of a constitutional amendment in Question 1 and has failed to pose a question that states the substance and essentials of the proposed amendment.

43. Submission for a vote under these circumstances would be arbitrary and unlawful.

44. Plaintiffs ask the Court to declare that Question 1 does not satisfy legal requirements for a ballot question to amend the Wisconsin Constitution and that any election based on Question 1 would be void.

SECOND CLAIM FOR RELIEF
(FAILURE TO INFORM THE VOTING PUBLIC THAT THE AMENDMENT
CONFLICTS WITH OR AMENDS WIS. CONST. ART. I, SECTIONS 7 AND 8,
AND ART. XII, SECTION 1, AND CONFLICTS WITH WITH U.S.
CONST. AMENDS. V, VI, AND XIV)

45. Plaintiffs reallege paragraphs 1 through 44 above as though fully set forth at length herein.

46. The proposed amendment states that it “is not intended and may not be interpreted to supersede a defendant’s federal constitutional rights” but the amendment does not state that the proposed victims’ rights yield to a federal constitutional right if the two are in conflict.

47. The proposed amendment contains no provision stating that it does not amend, supersede or override an accused’s current Wisconsin constitutional rights, nor does it state that

the proposed victim's rights yield to an accused's current Wisconsin constitutional rights. Instead, it states that the constitutional rights which it provides to victims shall "be protected by law in a manner no less vigorous than the protections afforded to the accused."

48. The proposed amendment infringes an accused's rights in several ways, including but not limited to:

- a) Infringing on the presumption of innocence and right of an accused to a fair trial and due process by imposing a constitutional determination that a crime has occurred and giving rights to an alleged "crime victim" prior to a conviction having been determined;
- b) Infringing on the right of an accused to a fair trial and due process by requiring that a court allow an alleged victim to attend all court proceedings, even if sequestration is necessary for a fair trial;
- c) Infringing on the right of an accused to a bail hearing, a right to release without bail in appropriate circumstances, and a right to a speedy trial by permitting delays if an alleged victim insists on attending all proceedings but is unavailable on dates and at times that otherwise would be set by the court; if proceedings are delayed because of required notices or rights of an alleged victim to file petitions for supervisory writs in the appellate courts; or if an alleged victim or his or her attorney insists on frequent conferences with the attorney for the government during court proceedings;
- d) Infringing on the due process rights of an accused to a fair trial, to be informed of the nature and cause of the accusation, to confront witnesses, to have compulsory process for obtaining witnesses in his favor, and to be provided with exculpatory

evidence if an alleged crime victim refuses an interview, deposition, or other discovery request made by the accused or his or her representative.

- e) Infringing on an accused person's right to a public trial as guaranteed by the Wisconsin Constitution as a result of victim's right to "privacy" and the right "to be treated with ...sensitivity."

49. The proposed amendment thus infringes upon, conflicts with, or in effect amends Wisconsin Constitution article I, sections 7 and 8 and infringes upon or conflicts with United States Constitution Amendments V, VI, and XIV.

50. Plaintiffs Buting and Johnson allege that their representation of accused clients and the rights of those accused clients will likely be severely impacted by the conflict between the proposed amendment and the rights of an accused as guaranteed by the Wisconsin and U.S. Constitutions. In addition, the proposed amendment's conflicts with the rights of the accused under the Wisconsin and U.S. Constitutions will likely result in extensive litigation that will burden an already-overburdened criminal justice system, delay court proceedings, and incur large costs to counties, to the State of Wisconsin, to persons accused of crimes, and may even overburden existing services to crime victims to the point of reducing the effectiveness of those services.

51. Question 1 states to voters that the proposed amendment will leave federal constitutional rights of the accused intact when, instead, the proposed amendment will infringe upon or conflict with an accused's rights under the U.S. Constitution. In addition, Question 1 fails to inform voters that the proposed amendment will directly conflict with an accused's rights under the current Wisconsin Constitution.

52. Question 1 fails to inform the electorate that the proposed amendment amends, conflicts with or violates Wisconsin Constitution article I, sections 7 and 8 and that it conflicts

with or violates United States Constitution Amendments V, VI and XIV. This violates Wisconsin Constitution article XII, section 1 as interpreted by the Supreme Court of Wisconsin in *State ex rel. Ekern v. Zimmerman*, 187 Wis. 180, 204 N.W. 803 (1925), and *State ex rel. Thomson v. Zimmerman*, 264 Wis. 644, 60 N.W.2d 416 (1953), and other pertinent law, by failing to present the real question; failing to reasonably, intelligently, and fairly comprise or reference every essential of the amendment; and failing to fully inform the voting public of the subject upon which they are required to exercise a franchise.

53. The Wisconsin State Legislature has failed to discharge its duty to provide a complete, comprehensive, and fair summary of a constitutional amendment in Question 1 and has failed to pose a question that states the substance and essentials of the proposed amendment.

54. Submission for a vote under these circumstances would be arbitrary and unlawful.

55. Plaintiffs ask the Court to declare that Question 1 does not satisfy legal requirements for a ballot question to amend the Wisconsin Constitution and that any election based on Question 1 would be void.

56. Plaintiffs also ask the Court to declare that adoption of the proposed Amendments to the Wisconsin Constitution would be void and unlawful as contrary to the provisions of the United States Constitution Amendments V, VI and XIV.

THIRD CLAIM FOR RELIEF
(INCLUDING MORE THAN ONE AMENDMENT IN A SINGLE
QUESTION IN VIOLATION OF WIS. CONST. ART. XII, § 1)

57. Plaintiffs reallege paragraphs 1 through 56 above as though fully set forth at length herein.

58. The proposed constitutional amendment in 2019 Enrolled Joint Resolution 3 amends and expands the rights of crime victims.

59. The proposed constitutional amendment in 2019 Enrolled Joint Resolution 3 also amends and expands the definition of crime victims to include many persons who were not previously constitutionally considered to be crime victims.

60. Question 1 and 2019 Enrolled Joint Resolution 3 present to the electorate more than one amendment, in violation of article XII, section 1 of the Wisconsin Constitution.

61. Submission for a vote under these circumstances would be arbitrary and unlawful.

62. Plaintiffs ask the Court to declare that Question 1 does not satisfy legal requirements for a ballot question to amend the Wisconsin Constitution and that any election based on Question 1 would be void.

WHEREFORE, Plaintiffs request:

A. A declaration that the Wisconsin State Legislature, when it acts under Wisconsin Constitution article XII, section 1, is under a duty to fully and fairly inform the electorate as to the contents of a proposed amendment.

B. A declaration that the Wisconsin State Legislature, when it acts under Wisconsin Constitution article XII, section 1, is under a duty to not mislead the people as to the contents of a proposed amendment.

C. A declaration that Question 1 and 2019 Enrolled Joint Resolution 3 violate Wisconsin Constitution article XII, section 1 as interpreted by the Supreme Court of Wisconsin by misleading voters, disregarding the plain meaning of terms, failing to fully and fairly inform the electorate, failing to present the real question, and/or failing to reasonably, intelligently, and fairly comprise or reference every essential of the amendment.

D. A declaration that the proposed amendment conflicts with the rights of an accused as set forth in the Wisconsin and United States Constitutions.

- E. A declaration that Question 1 and 2019 Enrolled Joint Resolution 3 violate Wisconsin Constitution article XII, section 1 by including more than one amendment.
- F. A declaration that 2019 Enrolled Joint Resolution 3 is void and of no effect.
- G. A temporary injunction preventing defendants from taking any actions to present the proposed amendment to Wisconsin voters pending determination of this matter
- H. Entry of an order permanently enjoining the Commission from submitting Question 1 to the electorate.
- I. Entry of an order permanently enjoining the Commission from tabulating or certifying any votes cast for or against Question 1 if submitted to the electorate in the April 2020 election.
- J. Entry of an order permanently enjoining the Secretary of State from recording the results of a vote on Question 1, if submitted to the electorate in the April 2020 election and approved by the electorate, in the records of the laws of Wisconsin.
- K. Entry of an order permanently enjoining any amendment of the Wisconsin Constitution pursuant to any vote on Question 1.
- L. For such other and further order and relief as may be just and equitable and for costs and disbursements of this action and attorneys fees as may be allowed by law.

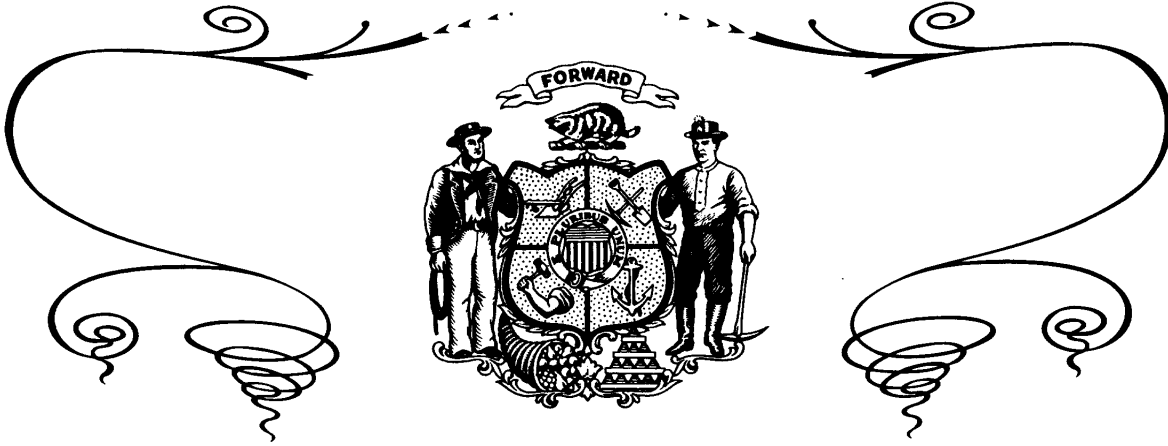
Dated: December 18, 2019.

Electronically signed by Dennis M. Grzezinski
Dennis M. Grzezinski
Attorney for Plaintiffs
State Bar No. 1016302.
Law Office of Dennis M Grzezinski

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EXHIBIT 1

State of Wisconsin



2019 Senate Joint Resolution 2

ENROLLED JOINT RESOLUTION

To renumber and amend section 9m of article I; and *to create* section 9m (1) of article I, section 9m (4) of article I, section 9m (5) of article I and section 9m (6) of [article I](#) of the constitution; **relating to:** the rights of crime victims (second consideration).

Whereas, the 2017 legislature in regular session considered a proposed amendment to the constitution in 2017 Senate Joint Resolution 53, which became 2017 Enrolled Joint Resolution 13, and agreed to it by a majority of the members elected to each of the two houses, which proposed amendment reads as follows:

SECTION 1. Section 9m of [article I](#) of the constitution is renumbered section 9m. (2) (intro.) of article I and amended to read:

[Article I] Section 9m (2) (intro.) ~~This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law: In order to preserve and protect victims' rights to justice and due process throughout the criminal and juvenile justice process, victims shall be entitled to all of the following rights, which shall vest at the time of victimization and be protected by law in a manner no less vigorous than the protections afforded to the accused:~~

- ~~(a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.~~
- ~~(b) To privacy.~~
- ~~(c) To proceedings free from unreasonable delay.~~
- ~~(d) To timely disposition of the case; the opportunity to attend court, free from unreasonable delay.~~
- ~~(e) Upon request, to attend all proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant; involving the case.~~
- ~~(f) To reasonable protection from the accused throughout the criminal and juvenile justice process;~~
- ~~(g) Upon request, to reasonable and timely notification of court proceedings; the opportunity to.~~
- ~~(h) Upon request, to confer with the prosecution; the opportunity to make a statement to the court at disposition; attorney for the government.~~
- ~~(i) Upon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.~~
- ~~(j) To have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.~~
- ~~(k) Upon request, to timely notice of any release or escape of the accused or death of the accused if the accused is in custody or on supervision at the time of death.~~
- ~~(L) To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.~~
- ~~(m) To full restitution; from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.~~
- ~~(n) To compensation; and as provided by law.~~

(o) Upon request, to reasonable and timely information about the status of the investigation and the outcome of the case and the release of the accused.

(p) To timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

(3) Except as provided under sub. (2) (n), all provisions of this section are self-executing. The legislature shall provide ~~may prescribe further~~ remedies for the violation of this section. ~~Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law. and further procedures for compliance with and enforcement of this section.~~

SECTION 2. Section 9m (1) of [article I](#) of the constitution is created to read:

[Article I] Section 9m (1) (a) In this section, notwithstanding any statutory right, privilege, or protection, “victim” means any of the following:

1. A person against whom an act is committed that would constitute a crime if committed by a competent adult.

2. If the person under subd. 1. is deceased or is physically or emotionally unable to exercise his or her rights under this section, the person’s spouse, parent or legal guardian, sibling, child, person who resided with the deceased at the time of death, or other lawful representative.

3. If the person under subd. 1. is a minor, the person’s parent, legal guardian or custodian, or other lawful representative.

4. If the person under subd. 1. is adjudicated incompetent, the person’s legal guardian or other lawful representative.

(b) “Victim” does not include the accused or a person who the court finds would not act in the best interests of a victim who is deceased, incompetent, a minor, or physically or emotionally unable to exercise his or her rights under this section.

SECTION 3. Section 9m (4) of [article I](#) of the constitution is created to read:

[Article I] Section 9m (4) (a) In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim’s attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim’s right and shall provide those reasons to the victim or the victim’s attorney or other lawful representative.

(b) Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under par. (a) by filing petitions for supervisory writ in the court of appeals and supreme court.

SECTION 4. Section 9m (5) of [article I](#) of the constitution is created to read:

[Article I] Section 9m (5) This section does not create any cause of action for damages against the state; any political subdivision of the state; any officer, employee, or agent of the state or a political subdivision of the state acting in his or her official capacity; or any officer, employee, or agent of the courts acting in his or her official capacity.

SECTION 5. Section 9m (6) of [article I](#) of the constitution is created to read:

[Article I] Section 9m (6) This section is not intended and may not be interpreted to supersede a defendant’s federal constitutional rights or to afford party status in a proceeding to any victim.

SECTION 6. Numbering of new provisions. If another constitutional amendment ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of the provisions whose numbers conflict.

Now, therefore, be it resolved by the senate, the assembly concurring, That the foregoing proposed amendment to the constitution is agreed to by the 2019 legislature; and, be it further

Resolved, That the foregoing proposed amendment to the constitution be submitted to a vote of the people at the election to be held on the first Tuesday in April 2020; and, be it further

Resolved, That the question concerning ratification of the foregoing proposed amendment to the constitution be stated on the ballot as follows:

QUESTION 1: “Additional rights of crime victims. Shall section 9m of [article I](#) of the constitution, which gives certain rights to crime victims, be amended to give crime victims additional rights, to require that the rights of crime victims be protected with equal force to the protections afforded the accused while leaving the federal constitutional rights of the accused intact, and to allow crime victims to enforce their rights in court?”

Representative Robin J. Vos
Speaker of the Assembly

Senator Roger Roth
President of the Senate

Date

Jeffrey Renk
Senate Chief Clerk