

IN THE SUPREME COURT OF THE STATE OF IDAHO
SUPREME COURT DOCKET NO. _____

IDAHOANS UNITED FOR WOMEN AND FAMILIES,
Petitioner,

vs.

PHIL McGRANE, in his official capacity as SECRETARY OF STATE OF THE
STATE OF IDAHO; and RAÚL LABRADOR, in his official capacity as
ATTORNEY GENERAL OF THE STATE OF IDAHO,
Respondents.

**VERIFIED PETITION FOR WRIT OF MANDAMUS, CERTIORARI, AND
PROHIBITION**

For Petitioner

ERIK F. STIDHAM, ISB #5483
efstidham@hollandhart.com
JENNIFER M. AIKO, ISB #9275
jmaiko@hollandhart.com
JOSHUA D. HURWIT, ISB #9527
jdhurwit@hollandhart.com
CAMERON L. MCCUE, ISB #12329
clmccue@hollandhart.com
HOLLAND & HART LLP
800 W. Main Street, Suite 1750
Boise, Idaho 83702
Telephone: 208-342-5000
Facsimile: 208-343-8869

ANNE HENDERSON HAWS
annie@haws-law.com
HAWS LAW, PLLC
503 W. Franklin St.
Boise, Idaho 83702
Telephone: 208-866-7838

Respondents

Phil McGrane
Secretary of State of Idaho
700 W. Jefferson Street, Room E205
Boise, Idaho 83720

Raúl Labrador
Attorney General of Idaho
700 W. Jefferson Street, Suite 210
Boise, Idaho 83720

I. INTRODUCTION

1. Petitioner Idahoans United for Women and Families (“Idahoans United”) has spent years organizing, mobilizing, and working alongside thousands of volunteers across the State of Idaho to secure a place on the 2026 general election ballot for the Reproductive Freedom and Privacy Act (the “Initiative”). Through an extraordinary statewide grassroots effort, Idahoans United engaged voters, gathered signatures, and complied with every legal requirement necessary to bring this measure before the people of Idaho.

2. Those efforts were successful. After collecting and qualifying more than 110,000 signatures from Idaho voters, Idahoans United and its dedicated volunteers earned ballot access for the Initiative, which was officially certified as “Proposition One” on July 13, 2026. The qualification of Proposition One reflects the substantial support of Idahoans who believe voters should have the opportunity to decide this important issue at the ballot box.

3. Reaching that milestone was not without its challenges. In early 2025, Idahoans United was forced to seek relief from this Court after the Attorney General’s Office and the Division of Financial Management issued ballot language and a fiscal impact statement that failed to substantially comply with Idaho law.

Idahoans United challenged the fiscal impact statement and both the short and long ballot titles on the grounds that they were misleading, unclear, prejudicial, and omitted key features of the Initiative. This Court largely agreed, holding that the fiscal impact statement and short ballot title did not substantially comply with statutory requirements, while concluding that the long ballot title was legally sufficient. The Court accordingly ordered revisions to the fiscal impact statement and short ballot title, which the Respondents to that case subsequently provided.

4. Proposition One presents Idaho voters with a measure designed to safeguard fundamental rights relating to reproductive health care and personal medical decision-making. Proposition One, if adopted, would establish the right to abortion prior to fetal viability and in medical emergencies. It would also protect an individual's right to consult privately with health care providers regarding reproductive health care and would shield providers from liability arising from their consultation with, or assistance to, patients exercising their reproductive rights. At its core, Proposition One concerns whether deeply personal medical decisions should remain with individuals, their families, and their health care providers.

5. Idahoans United now brings this original action seeking judicial review of statements purporting to provide the effect of a “yes” or “no” vote, jointly prepared by the Attorney General and the Secretary of State and intended for the official ballot (the “Proposed Yes/No Statements”). As with the ballot titles and fiscal impact statement previously reviewed by this Court, the integrity of the electoral process depends upon Idahoans receiving fair, accurate, and impartial information regarding Proposition One on the ballot when they cast their votes.

6. The Proposed Yes/No Statements violate Idaho Code section 34-1810(1)(b) because they do not provide “the effect of a ‘yes’ or ‘no’ vote” but rather seek to characterize Proposition One and existing abortion law and obfuscate both Proposition One and existing law, causing high risk of voter confusion.

II. PARTIES

7. Petitioner Idahoans United is an Idaho-based non-profit 501(c)(4) organization. Its mission is to advocate for and restore access to comprehensive reproductive health care while promoting the well-being of women, children, and families in Idaho. Idahoans United is managed by a five-member board of directors. Its executive director is Melanie Folwell.

8. Respondent Raúl Labrador is named in his official capacity as the Attorney General for the State of Idaho.

9. Respondent Phil McGrane is named in his official capacity as Secretary of State of the State of Idaho.

III. JURISDICTION

10. This Court has jurisdiction over this matter pursuant to Article V, Section 9 of the Idaho Constitution, which vests the Idaho Supreme Court with original jurisdiction to issue extraordinary writs. *See also* Idaho Code § 1-203.

11. A writ of mandamus may be issued by the Idaho Supreme Court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an officer, trust, or station. Idaho Code § 7-302. The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. Idaho Code § 7-303.

12. A writ of certiorari, or review, may be granted by the Court when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded their jurisdiction, and there is no appeal, nor in the judgment of the court, any plain, speedy, and adequate remedy. Idaho Code § 7-202.

13. A writ of prohibition “is the counterpart of the writ of mandate,” I.C. § 7-401, and “is substantially similar in both scope and limitation[.]” *Labrador v. Idahoans for Open Primaries*, 174 Idaho 1034, 1041, 554 P.3d 85, 92 (2024), *as amended* (Aug. 14, 2024) (quoting *Hepworth Holzer, LLP*, 169 Idaho at 393, 496 P.3d at 879). “It arrests the proceedings of any tribunal, corporation, board or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.” I.C. § 7-401. A writ of prohibition may be issued by the Court when “(1) the tribunal, corporation, board or person is proceeding without or in excess of the jurisdiction of such tribunal, corporation, board, or person, and (2) that there is not a plain, speedy, and adequate remedy in the ordinary course of law.” 174 Idaho at 1041, 554 P.3d at 92 (internal citations omitted); *see also* I.C. § 7-402.

14. Reviewing the Proposed Yes/No Statements intended for the ballot falls within the scope of this Court’s original jurisdiction because Idaho Code § 34-1810(1)(b) imposes a clear legal duty that the attorney general and secretary of state prepare Yes/No Statements that meet the mandatory requirements of the statute. *See Idahoans United for Women & Fams. v. Labrador*, 175 Idaho 708, 570 P.3d 1137, 1146 (2025).

15. The issues presented in this petition are of statewide importance and arise from the Idaho electorate's constitutional right to initiative, set forth in Article III, section 1 of the Idaho Constitution. Idahoans United was only informed of the Proposed Yes/No Statements two days ago, after the voter pamphlets had been sent to the printer. Petitioner sought to resolve the dispute absent judicial process, requesting changes to the Proposed Yes/No Statements from the Secretary of State and Attorney General. Respondents refused. Idahoans United has no plain, speedy, and adequate remedy in the course of law.

16. This petition, relating to the content of the ballot for the imminent 2026 election, is urgent. Idahoans United seeks this Court's expedited review of the Yes/No Statements, as Idahoans United understands from the Secretary of State that ballot printing must occur by September 11, 2026 in order to meet deadlines for sending ballots to servicepeople and overseas voters.

IV. STANDING

17. Idahoans United has associational standing because its members would have standing to sue in their own right; the interests it seeks to protect are germane to the organization's purpose; and neither the claim asserted, nor the relief requested, requires the participation of individual members in the lawsuit.

18. Idahoans United's members would have standing to sue in their own right. Melanie Folwell, Executive Director for, and member of, Idahoans United, has suffered and will continue to suffer injury in fact due to the defective Proposed Yes/No Statements, which if printed on the ballot as the Secretary of State and Attorney General intend, prejudice Proposition One.

19. The interests Idahoans United seeks to protect in this action are germane to its purpose. The mission of Idahoans United is to advocate for and restore access to comprehensive reproductive health care while promoting the well-being of women, children, and families in Idaho. Proposition One's appearance on the ballot, in compliance with statute, serves this mission.

20. The Court's review of the Proposed Yes/No Statements does not require individual participation from Idahoans United's individual members. Idahoans United seeks prospective relief, and its benefits will be shared by the entire membership without any need for individualized findings of injury that would require the direct participation of individual members.

V. LEGAL FRAMEWORK

21. For over a century, Article III, section 1 of the Idaho Constitution has reserved to the people the power to propose, enact, approve, or reject laws through ballot initiatives or referendums.

22. Under the “initiative” power, the people can “propose laws” and “initiate any desired legislation and cause the same to be submitted to the vote of the people at a general election for their approval or rejection.” Idaho Const. Art. III, § 1.

23. The Idaho Supreme Court has held that the people’s initiative and referendum rights are fundamental rights. *Reclaim Idaho v. Denney (In re Writ of Prohibition)*, 169 Idaho 406, 427, 497 P.3d 160, 181 (2021).

24. The Idaho Legislature has codified the procedures and duties of public officials pertaining to ballot initiatives under Title 34, Chapter 18 of the Idaho Code.

25. Idaho Code § 34-1810(1)(b) requires a ballot to “include a clear and concise statement as to the effect of a ‘yes’ or ‘no’ vote, prepared jointly by the attorney general and secretary of state,” (“Yes/No Statements”). Idaho Code § 34-1810(1)(b).

26. The effect of a yes or no vote, by its plain language, means what a vote causes to happen. For a ballot proposition, that consequence is binary and straightforward. A “yes” vote enacts the measure. A “no” vote leaves existing law unchanged. Nothing more is authorized by Idaho Code § 34-1810(1)(b).

27. Alongside the Yes/No Statements, the ballot must include the short and long ballot titles (Idaho Code § 34-1809), the fiscal impact statement (Idaho Code § 34-1812), and the funding source statement (Idaho Code § 34-1812), which collectively inform the voter of a given initiative. The Idaho Supreme Court has made clear that ballot titles serve to inform the voter of the distinctive characteristics of the measure at issue, including what alterations it makes to existing law. The Yes/No Statements are not authorized to overwrite the titles.

28. Historically, the Yes/No Statements conform to the standard above. They were binary and straightforward, stating what a yes or no vote causes to happen. For the 2018 Medicaid initiative, the No Statement read: “A NO vote would make no change to Idaho’s current law.” The 2018 historical horse racing initiative used the same statement. For the 2024 election reform initiative, the No Statement read: “A NO vote would make no changes to the current primary and general election voting process.” And the 2024 constitutional amendment on

citizenship requirements for voting, the No Statement read: “A NO vote would make no change to the Idaho Constitution.”

VI. FACTUAL BACKGROUND

29. The Initiative (now qualified as Proposition One) seeks to protect Idahoans’ rights to make personal decisions about reproductive health care.

30. In April 2025, the Court heard a challenge by Idahoans United to the fiscal impact statement and ballot titles prepared for the Initiative. Idahoans United argued that the fiscal impact statement and both the short and long ballot titles failed to comply with Idaho law because they were misleading, unclear, prejudicial, or omitted key features of the initiative. The Court largely agreed, holding that the fiscal impact statement and short ballot title did not substantially comply with statutory requirements, while concluding that the long ballot title was legally sufficient. The Court ordered revisions to the fiscal impact statement and short ballot title.

31. On July 13, 2026, Idahoans United qualified the Initiative to appear on the November 3, 2026 general election ballot. The qualification followed a year-long effort to collect and certify the signatures of nearly 110,000 Idahoans.

32. On August 24, 2026 at 4:57 p.m., Idahoans United received from the Idaho Secretary of State’s Office a copy of the 2026 voter pamphlet pages relating to Proposition One. The email states, “I am reaching out to share the pages from the voter pamphlet we are printing regarding Proposition One. Your pro and rebuttal arguments are there as well as the Yes/No language that will appear on the ballot.”

33. The voter pamphlet includes the following characterization of what a “yes” vote or a “no” vote will do:



34. Idahoans United responded to the email to inquire, “When does this Voter Guide go to print?” The Deputy Secretary of State replied, “Our office finalized the pamphlet and sent it to the printer last Thursday” (August 20, 2026).

35. On August 25, 2026, Idahoans United, via a six-page letter from legal counsel Erik Stidham, asked the Attorney General and the Secretary of State to withdraw the Proposed Yes/No Statements, detailing why they were not “clear and

concise statement[s] as to the effect of a ‘yes’ or ‘no’ vote,” Idaho Code § 34-1810(1)(b). The letter provided proposed, compliant statements like those historically used on official ballots:

A YES vote means Proposition One will become state law.

A NO vote means state law regarding abortion will remain unchanged.

Idahoans United asked the Attorney General and the Secretary of State to “join in the proposed language stating the effect of each vote without characterizing current law, and confirm by noon on August 26, 2026, so the correction can be made before pamphlets and ballots are printed. We would prefer to resolve this by agreement and are available today to discuss it.” The letter was sent via hand-delivery and email to Attorney General Labrador and Secretary of State McGrane, with copy to Deputy Secretary of State Matthew Reiber.

36. The afternoon of August 25, 2026, Mr. Stidham received a phone call from James Craig, Division Chief of the Civil Litigation and Constitutional Defense Division of the Office of the Attorney General requesting a meeting on the following day at 10:30 a.m.

37. On August 26, 2026, at 10:30 a.m., Mr. Stidham and Holland & Hart partner Josh Hurwit met with Attorney General Labrador, Mr. Craig, Secretary of

State McGrane, Mr. Reiber, and Yvonne Dunbar, Chief Counsel to the Attorney General. Based on the discussion, Idahoans United's legal counsel came to understand that the Secretary of State had sent out the sample ballots to the county clerks earlier in the morning, prior to the meeting, noting that Proposition One statements may be subject to litigation. Mr. Stidham and Mr. Hurwit were also made aware that the Attorney General and the Secretary of State would not withdraw the Proposed Yes/No Statements—and that the Secretary of State needs to be able to finalize the content of ballots no later than September 11, 2026 in order for county clerks to have enough time to meet the deadline to mail ballots to military servicemembers.

38. The Attorney General and Secretary of State will not correct the Proposed Yes/No Statements voluntarily. The language of the Proposed Yes/No Statements will appear on the ballot absent judicial intervention.

39. Idahoans United has no plain, speedy, or adequate remedy in the ordinary course of law. Absent judicial intervention before September 11, 2026, the ballots will carry statements that exceed the authority section 34-1810 confers and misstate existing law, depriving the Idaho electorate of a clear and concise

statement of the effect of their vote and violating the people's constitutional right to direct legislation.

VII. FIRST CLAIM FOR RELIEF

The Yes/No Statements the Attorney General and Secretary of State jointly prepared, characterizing Proposition One and existing law, are ultra vires acts exceeding their authority.

40. Petitioner incorporates the preceding paragraphs.

41. The effect of a yes or no vote, under the plain language of Idaho Code § 34-1810(1)(b), means what a vote causes to happen. A “yes” vote enacts the measure. A “no” vote leaves existing law unchanged. Nothing more is authorized by Idaho Code § 34-1810(1)(b).

42. The Attorney General and Secretary of State are not granted authority to use the Yes/No Statements as a vehicle for characterizing a measure or existing law, yet they have done so here. The characterizations of Proposition One and existing law are ultra vires acts, not authorized by law.

43. The ballot titles serve to inform the voters of the distinctive qualities of Proposition One and how it alters existing law. The Attorney General and Secretary of State's characterizations of the same in the Proposed Yes/No

Statements attempt an end-run around the ballot titles this Court adjudicated last year for Idahoans United.

44. The Attorney General and Secretary of State have mandatory duties to jointly prepare the Yes/No Statements as set forth in Idaho Code § 34-1810(1)(b). The duties do not extend to characterizing Proposition One or existing law. They must be prohibited from doing so. The Secretary of State must be prohibited from issuing final ballots containing any Yes/No Statements that characterize Proposition One or existing law.

VIII. SECOND CLAIM FOR RELIEF

The No Statement is not clear and concise because its characterization of existing law is confusing and inaccurate.

45. Petitioner incorporates the preceding paragraphs.

46. The characterizations of existing law in the Proposed No Statement are misleading, inaccurate, and likely to cause voter confusion, violating Section 34-1810(1)(b)'s requirement that the statement be "clear and concise."

47. "Clear and concise" for purposes of ballot language means no confusing statements, material omissions, or language that tends to play to the passions of voters. The Proposed No Statement fails the standard by attempting to

summarize a contentious and complex area of law in thirty-eight words, using value-laden language.

48. The No Statement misleads in three related ways: it (a) omits critical features of current law, (b) uses undefined and inaccurate terminology, and (c) employs argumentative language that advocates for a “no” vote rather than describing a legal effect.

- a. The No Statement omits the current law’s (i) criminal prohibition under Idaho Code § 18-622, which makes performing or attempting an abortion a felony crime, punishable by incarceration and professional discipline, including license suspension and revocation; (ii) narrow scope of the life exception, which actually only permits abortion when necessary to prevent the death of a pregnant woman and expressly excludes situations involving self-harm and requires the physician to employ methods maximizing fetal survival when possible; and (iii) imposition of criminal liability under Idaho Code § 18-623 for recruiting, harboring, or transporting an unemancipated minor to obtain an abortion.

- b. The No Statement uses undefined and inaccurate terms where it states that Idaho law permits abortion in “reported cases of rape or incest.” That is not an accurate description, when the exception is also premised on the abortion occurring in the first trimester and the patient providing the physician with a copy of the police report wherein she reported the assault.
- c. The No Statement is argument, using adversarial framing like “life of the unborn” (rather than fetus) and “life of the mother” (rather than woman), terms used only on one side of this controversial legal issue.

49. The Proposed No Statement is not clear and concise. It would, however, comply with Idaho Code § 34-1810(1)(b) if truncated to its first eleven words: “A NO vote would make no change to Idaho’s current law,” eliminating the language that would cause voter confusion and prejudice Proposition One and Idahoans United. The Attorney General and Secretary of State should be mandated to issue a proper No Statement in the form quoted above.

IX. THIRD CLAIM FOR RELIEF

The Proposed Yes Statement's recharacterization of fetal viability is not clear and concise because it introduces two additional ways of saying the same thing, causing confusion and prejudice.

50. Petitioner incorporates the preceding paragraphs.

51. Petitioner and the Attorney General already litigated the use of the term "fetus viability" in the prior lawsuit, and the Court certified that term. The Proposed Yes Statement now introduces an additional way of expressing the concept: "before a fetus's ability to survive and after a fetus's ability to survive." This appears to be another way of describing the same point in pregnancy as "fetus viability." Describing the same concept in different words for no apparent reason, in content as short as the ballot, invites confusion.

52. The Proposed Yes Statement is not clear and concise. A compliant Yes Statement would be similar to the following: "A YES vote means Proposition One will become state law." The Attorney General and Secretary of State should be mandated to issue a proper Yes Statement in the form quoted above or substantially similar thereto.

PRAYER FOR RELIEF

Petitioner respectfully requests the following relief from this Court:

1. That this Court exercise its original jurisdiction.
2. That this Court enter a writ against the Attorney General and the Secretary of State, prohibiting them from characterizing Proposition One or existing abortion law in their Yes/No Statements under Idaho Code § 34-1810(1)(b).
3. That this Court enter a writ against the Secretary of State, prohibiting him from sending out a final ballot that includes the Proposed Yes/No Statements.
4. That this Court enter a writ of mandamus or certiorari as to the Attorney General and the Secretary of State, requiring they jointly prepare new Yes/No Statements with language substantially similar to the following:

A YES vote means Proposition One will become state law.

A NO vote means state law regarding abortion will remain unchanged.
5. That this Court award to Petitioner its reasonable attorney fees and costs for this matter under Idaho Code §§ 12-117(1), 12-117(2), or other applicable authorities and statutes.
6. That this Court provide any other relief the Court deems just and equitable.

Filed this 26th day of August, 2026

HOLLAND & HART LLP

/s/Erik F. Stidham

Erik F. Stidham

Jennifer M. Aiko

HAWS LAW, PLLC

/s/Anne Henderson Haws

Anne Henderson Haws

Attorneys for Petitioner

VERIFICATION

I, Melanie Folwell, declare under penalty of perjury pursuant to the laws of the State of Idaho that I am the Executive Director of Idahoans United for Women and Families, that I have read the foregoing Verified Petition, that I know the contents thereof, and affirm that the matters and allegations set forth therein are true to the best of my knowledge and belief.

Executed this 26th day of August, 2026.

/s/ *Melanie Folwell*

Melanie Folwell

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August, 2026 I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Raúl Labrador
Office of the Attorney General
700 W. Jefferson Street, Suite 210
P.O. Box 83720
Boise, ID 83720-0010
aglabrador@ag.idaho.gov

☒ U.S. Mail 8/27/26
☐ Hand Delivered
☐ Overnight Mail
☒ Email/iCourt/eServe:

Phil McGrane
Idaho Secretary of State
700 W. Jefferson Street, Room E205
P.O. Box 83720
Boise, ID 83720-0080
secretary@sos.idaho.gov

☒ U.S. Mail 8/27/26
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☒ Email/iCourt/eServe:

/s/ Erik F. Stidham

Erik F. Stidham
OF HOLLAND & HART LLP