



151 West Street, Suite 200  
Annapolis, MD 21401

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Defendants.

PETITION FOR JUDICIAL REVIEW OF DECISION OF  
THE MARYLAND STATE BOARD OF ELECTIONS

1. Petitioner, Women Against Private Police, by and through its undersigned attorneys, and pursuant to Md. Code, Elec. L. § 6-209 and Md. Rules 7-201 *et. seq.*, requests judicial review of the Advance Determination of Sufficiency dated April 17, 2019, made by the Maryland State Board of Elections, through Linda Lamone, the State Director of Elections, concerning the format of the referendum petition submitted by Petitioner seeking to refer SB 793 of the 2019 General Assembly, 2019 Md. Laws, ch. 25, (hereinafter “SB 793”) to a vote of the electorate, as authorized by Md. Const., Art. XVI, § 1. Petitioner also requests judicial review of the Revised Advance Determination of Sufficiency, dated April 25, 2019, made by the Maryland State Board of Elections, through Linda Lamone, the State Director of Elections, concerning the format of the same referendum petition submitted by Petitioner. The April 17 Advance Determination improperly concluded that the petition was insufficient, based on the claim that the legislation was an appropriation measure not subject to referendum. The April 17 Advance Determination did not make any conclusions regarding the sufficiency of the petition’s summary of the legislation, despite Petitioner’s request for such a determination. The April 25, 2019 Revised Advance Determination states that it replaces the April 17, 2019 Advance Determination, and does make conclusions regarding the sufficiency of the petition’s summary (which are not challenged here), and also reaffirmed the improper conclusion in the April 17, 2019 Advance Determination concerning the referability of the legislation.

2. Petitioner, through its Chairperson Jillian Aldebron, submitted the Request for Advance Determination, pursuant to Md. Code, Elec. L. § 6-202(a), to the State Board of Elections on April 8, 2019, and is thus a party with respect to that determination.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

3. Plaintiffs Women Against Private Police, and Jillian Aldebron, by and through their undersigned attorneys, file this Complaint for Declaratory and Injunctive Relief against the Maryland State Board of Elections and Linda Lamone, in her official capacity as State Administrator of Elections. In support thereof, Plaintiffs allege the following:

**I. Nature of the Action**

4. This is an action for declaratory and injunctive relief (and for judicial review) concerning an Advance Determination made by the Maryland State Board of Elections declaring that SB 793, the “Community Safety and Strengthening Act”, which authorizes the creation of a Johns Hopkins University Police Department, may not be referred to a vote of the electorate because it is a law making an appropriation.

**II. Jurisdiction and Venue**

5. This Court has jurisdiction over this action pursuant to Md. Code, Cts. & Jud. Proc. §§ 1-501 and 3-406, and Elec. L. § 6-209(a) and (b).

6. This Court has personal jurisdiction over Defendants pursuant to Md. Code, Cts. & Jud. Proc. §§ 6-102 and 6-103.

7. Venue is proper in this Court pursuant to Md. Code, Elec. L. § 6-209(a)(i), which directs parties filing an action concerning a statewide petition to do so in the Circuit Court for Anne Arundel County.

### III. Parties

8. Women Against Private Police (“WAPP”) is a Ballot Issue Committee, formed on April 3, 2019, as required by Md. Code, Elec. L. § 13-202(d), and as defined by Md. Code, Elec. L. § 1-101(f), to collect petition signatures seeking to refer SB 793 to a vote of the electorate, as authorized by Md. Const., Art. XVI, § 1.

9. Plaintiff Jillian Aldebron is a registered voter in Maryland and a resident of Baltimore City. Ms. Aldebron resides in the Washington Hill neighborhood adjacent to the East Baltimore campus of Johns Hopkins University and in the potential patrol zone of the Johns Hopkins University Police Department. As a result, she has a direct interest personally in preventing the creation of that Police Department. Further, personally and as a member of WAPP, she has a direct interest in referring SB 793 to a vote of the electorate.

10. Defendant State Board of Elections (“SBE”) is the agency mandated by Maryland law to administer the state’s elections laws. SBE is required by Md. Code, Elec. L. § 6-202 to make an advance determination, if one is requested, concerning the sufficiency of any petition to refer an act of the General Assembly to a vote of the electorate, and is required by Md. Code, Elec. L. § 6-206 to make a final determination regarding the sufficiency of any petition, consistent with any advance determination. It is also required by Md. Code, Elec. L. §§ 6-207 and 6-208 to determine whether a petition has satisfied all of the requirements established by law, and upon such determination, to certify that the question of whether the legislation should take effect will be put on the ballot.

11. Defendant Linda Lamone is the State Administrator of Elections, and is the “chief election official of the appropriate election authority” under and for the purposes of Md. Code, Elec. L. § 6-202(a), with respect to the Request for Advance Determination at issue in this case,

and under and for the purposes of Elec. L. § 6-206, with respect to making a final determination of sufficiency, consistent with any advance determination, concerning the proposed petition at issue in this case, and under and for the purposes of Elec. L. § 6-208, with respect to certifying that the petition process has been completed and placing a question on the ballot, concerning the proposed petition at issue in this case.

#### **IV. Facts**

12. Johns Hopkins University (“JHU”) is a private institution of higher education with multiple campuses in Baltimore City.

13. JHU first sought legislation authorizing it to create a police force with all of the state’s police powers in the 2018 General Assembly. House Bill 1803, cross-filed with Senate Bill 1241, was introduced on March 5, 2018, at JHU’s request by Delegate Cheryl Glenn and Senator Joan Carter Conway, respectively. The bills would have authorized *any* independent institution of higher education in Baltimore City to establish a campus police force whose officers would have all of the powers granted to a peace and police officer under state law.

14. The 2018 legislation faced significant opposition from Hopkins students, staff, and faculty, from community members in Baltimore City, and from legislators, when it came up for a hearing in the House Judiciary Committee on March 20, 2018. A bill hearing in the Senate Judicial Proceedings Committee on the same date was cancelled, and neither committee voted on the bill during the 2018 legislative session.

15. JHU came back to the General Assembly in the 2019 Session with a significantly revised bill. Senate Bill 793, introduced on February 4, 2019, authorized the creation of a JHU Police Department specifically, rather than allowing any independent institution of higher education in Baltimore to create one. The bill, which as introduced was 21 pages long, also contained, in

Section 2, significantly more detail about the process to be used in establishing the force, the geographic scope of its operation, limits on its investigative authority, and required policies and training. It further mandated a university advisory body and review by the Baltimore City Civilian Review Board, specified the manner of appointing people to the advisory body, and required certain reporting, among other provisions. Section 3 of the bill contained uncodified language specifying the process to be used for seeking public comment on the Memorandum of Understanding that the bill required to be executed between the Baltimore Police Department and the new JHU Police Department.

16. Section 1 of SB 793 contained a series of legislative spending measures, authorized by Md. Const., Art. III, §§ 52(11) and (12), directing the Governor to include specified sums of money, greater than current appropriations, in future year budgets with respect to four programs. First, the Governor is directed to budget specified amounts to the Seed Community Development Anchor Institution Fund, authorized by Md. Code, Housing & Comm. Dev., § 4-509, which makes grants to so-called “anchor institutions,” which are defined to include JHU and Johns Hopkins Hospital, for community development projects in blighted areas of the state. Second, the Governor is directed to budget specified amounts to the Local Management Board for Baltimore City, required to be created by Md. Code, Hum. Serv’s § 8-301, *et seq.*, to be used for the Baltimore Children and Youth Fund. Third, the Governor is directed to budget specified amounts for the Baltimore City YouthWorks Summer Jobs Program, a project of the Baltimore City Mayor’s Office of Economic Development. Fourth, the Governor is directed to budget a specified amount for a new Law Enforcement Cadet Apprenticeship Program created by the bill, located in the State Department of Labor, Licensing, and Regulation, Division of Employment and Training. The program will make grants, in specified circumstances, to those state and local

law enforcement agencies, and the new JHU Police Department, that operate an apprenticeship program authorized by Md. Code, Labor & Empl. § 11-405(b). Section 4 of the bill also expresses the General Assembly’s intent that the Governor budget a specified amount for the East Baltimore Historical Library if JHU provides matching funds. None of the spending measures has any connection to the JHU Police Department, which the bill primarily concerns.

17. Section 5 of the bill specifies that the Act will take effect on July 1, 2019.

18. SB 793 does not contain any provision stating that the Act is not severable, and Md. Code, Gen. Prov. § 1-210(a) states that “[e]xcept as otherwise provided, the provisions of all statutes enacted after July 1, 1973 are severable.”

19. Like the 2018 legislation, SB 793 also generated significant and passionate opposition from students, staff, and faculty at JHU, and from members of the Baltimore community. The opposition was focused exclusively on the provisions creating a JHU police force, and not at all on the spending measures in the bill. A poll of undergraduate students at JHU, conducted by the student government in 2018, found that approximately 75 percent of undergraduate students opposed creation of a JHU police force. The Johns Hopkins University African Student Organization voted to oppose the creation of a JHU police force, as did the Johns Hopkins University Teachers & Researchers United, the graduate student union at JHU. A petition opposing the police force received approximately 2,600 on-campus signatures, and more than 100 JHU professors signed a statement of opposition. In addition, the JHU Homewood Faculty Assembly passed a resolution on April 9, 2019, urging the University President to withdraw the plans to create a JHU police force. Several community associations from neighborhoods surrounding JHU’s campuses also voted to oppose the creation of a JHU police force, including the Abell Community Association, Harwood Community Association, Remington Community

Association, and Old Goucher Community Association. The Unite Here! Local 7 Food Service Workers Union, which represents JHU food service workers, also opposed SB 793. Students Against Private Police, a coalition of 15 JHU student groups, and community members, formed to oppose SB 793. On April 3, 2019, JHU students began a sit-in at Garland Hall, the administration building on JHU's Homewood Campus, to demand an end to the plan to create a JHU police force with the state's police powers, among other issues. That sit-in is continuing as of the date of this Complaint.

20. At the bill hearings on SB 793 before the City House and Senate delegations, and in the House Judiciary Committee and Senate Judicial Proceedings Committee, many opponents appeared to deliver testimony opposing the creation of a JHU police force. SB 793 was jointly referred to the Senate Budget and Taxation Committee, but that committee did not hold any hearings on the bill and did not take a committee vote on the bill. Neither SB 793, nor HB 1094, the House cross-file of the bill, were referred to the House Appropriations Committee.

21. The written testimony on SB 793 overwhelmingly focused on the merits of allowing JHU to establish its own police force with state police powers, a force that will patrol and act in communities surrounding the JHU campuses. The spending measures were barely mentioned, and what mention there was came overwhelmingly from opponents of the police force. The bill file for SB 793 contains testimony from 246 persons and institutions or organizations, comprising 439 pages. Of that, 67 opponents submitted testimony that is clearly based on a template (because of significant similarities among the testimony). Each of those opponents included the following four-sentence paragraph related to the spending measures in the bill:

Fifth, it is a cynical political move to pair state authorization for a Johns Hopkins private police force with funding for youth programs. This is not even money that would be directly going to programs but to "anchor institutions" (such as Johns Hopkins) to then be disbursed as these institutions see fit. This goes against



consistent demands by students and community members that Hopkins begin using its own resources to invest in its surrounding communities. This funding would also only go till 2024, while a JHU Police Department is basically permanent, with no measures in this bill for revisiting the issue or sunseting that department. Essentially, Johns Hopkins is not only asking for the massive expansion in power that comes with a private police force, but also for the state government to subsidize proactive anti-crime measures, like funding for youth programs, that Hopkins should be carrying out itself.

Of the remaining 179 pieces of testimony, only 13 even mentioned the spending measures, and the mentions took up a total of 39 sentences. Of those, eight persons or organizations were opposed to including the funding, and to the bill, and their discussion of the issue took up 30 of the 39 sentences. Of the remaining five proponents, including the testimony from JHU, the Mayor, and BPD, the spending measures occupied 9 sentences out of 13 pages of supportive testimony (aside from JHU's 160 of attachments to their testimony).

22. Similarly, there were over 15 hours of testimony and debate about SB 793 and the cross-filed HB 1094 before the Baltimore City House Delegation, Baltimore City Senate Delegation, House Judiciary Committee, Senate Judicial Proceedings Committee, and on the floors of the House and Senate. Of those 15 hours of testimony and debate, approximately 44 minutes were spent discussing the spending measures. And much of what discussion there was about the spending measures came from opponents of the private police force who thought the spending measures should be separated out. In short, as with the written testimony, the discussion about the bill was overwhelmingly about the merits, or lack thereof, of allowing JHU to create a police force.

23. In order to try to address the concerns raised about the police force, those sections of the bill underwent revision during the delegation and committee process. The revised bill, which is 27 pages long, made changes to the provisions noted above, and required a specified percentage of JHU Police Department officers to be City residents, requires the JHU Police Department to

make certain records available to the public, limited application of state law governmental immunity doctrines to the officers and employees of the department, the department itself, or JHU, and mandated future legislative review, among other provisions. The spending measures were not altered in any way.

24. SB 793 passed on April 1, 2019, and was signed by the Governor on April 18, 2019.

25. WAPP was formed on April 3, 2019, by residents living in the contemplated patrol zones of a JHU police force who had opposed the bill during session and were involved in community education and lobbying against it. The decision to seek a referendum vote on the legislation was taken for purposes of exhausting the last remaining avenue to prevent its implementation under Maryland law.

26. Md. Code, Elec. L. § 6-202(a) allows a Ballot Issue Committee that intends to seek to petition an Act of the General Assembly to referendum to obtain an advance determination regarding the sufficiency of the petition, including its required description of the legislation, to ensure that the committee's efforts at gathering signatures will not be a wasted effort due to the State Board of Elections determining after-the-fact that the petition was improper for some reason.

27. WAPP submitted its proposed petition form to the State Board of Elections on April 8, 2019, seeking an advance determination, both as to the sufficiency of the petition's description of the legislation, and as to whether the part of SB 793 creating the JHU Police Department could be referred to the electorate.

28. On April 17, 2019, Defendant Linda Lamone sent WAPP her Advance Determination concerning the sufficiency of WAPP's proposed petition. That Advance Determination concluded the petition was not sufficient, on the erroneous theory that the Act sought to be

referred was an appropriation prohibited from referral pursuant to Md. Const., Art. XVI, § 2.

The Advance Determination enclosed, as legal justification, a memorandum dated April 12, 2019, from Assistant Attorney General Andrea W. Trento to Defendant Linda Lamone. Despite Plaintiff WAPP's explicit request for an Advance Determination regarding the sufficiency of the petition's description of the legislation, the April 17, 2019 Advance Determination did not address that issue.

29. Petitioner urgently sought an Advance Determination concerning the sufficiency of the petition's description of the Act in a telephone conversation with Mary Wagner, Director of the Voter Registration and Petitions Division of the State Board of Elections, on April 15, 2019, but was told that the Advance Determination had already been issued and that there was no provision in the law for a "reconsideration." Petitioner submitted a formal written request for an Advance Determination on the bill summary text on April 22, 2019, pursuant to which Defendant Linda Lamone issued a Revised Advance Determination on April 25, 2019. That document was given to WAPP on April 26, 2019, only because Ms. Aldebron went to the SBE offices looking for it. The Revised Advance Determination concluded that the description was insufficient for specified reasons. It also reaffirmed the April 17 Determination that the Act was not subject to referendum.

30. Plaintiffs have been irreparably harmed in that they have lost nine days, or approximately 20 percent of the time available to collect the first tier of required signatures on the petition by May 31, 2019, and 12 percent of the total time available to gather signatures on the petition by June 30, 2019. If Defendants' determination of non-referability is allowed to stand, Plaintiffs will suffer permanent irreparable injury by not being able to petition SB 793 to referendum, as the Maryland Constitution permits.

#### **IV. Causes of Action**

##### Count I

31. Plaintiffs repeat and re-allege paragraphs 1 - 30 as though fully set forth herein.
32. SB 793 is not an appropriation because the spending measures in Section 1 of the Act are not the “primary purpose” of the Act.
33. Accordingly, the Advance Determination that the bill is not referable is incorrect as a matter of law, as is the Revised Advance Determination reaffirming the original conclusion on that point, in violation of Art. XVI, §§ 1 and 2 of the Maryland Constitution.

##### Count II

34. Plaintiffs repeat and re-allege paragraphs 1 - 30 as though fully set forth herein.
35. Even if SB 793 contains, in part, a spending measure, the JHU police provisions in Section 2 and 3 of the Act are severable and are themselves referable.
36. Accordingly, the Advance Determination that the severable part of the bill authorizing the creation of the JHU Police Department is not referable is incorrect as a matter of law, as is the Revised Advance Determination reaffirming the original conclusion on that point, in violation of Art. XVI, §§ 1 and 2 of the Maryland Constitution.

##### Count III

37. Plaintiffs repeat and re-allege paragraphs 1 - 30 as though fully set forth herein.
38. Even if SB 793 is an appropriation, it is not one for the purpose of maintaining the state government.
39. Accordingly, the Advance Determination that the bill is not referable is incorrect as a matter of law, as is the Revised Advance Determination reaffirming the original conclusion on that point, in violation of Art. XVI, §§ 1 and 2 of the Maryland Constitution.

#### Count IV

40. Plaintiffs repeat and re-allege paragraphs 1 - 30 as though fully set forth herein.
41. Defendants SBE and Lamone failed to issue a timely advance determination, and provide timely notice to the Petitioner thereof, as to the sufficiency of the summary of the bill, in violation of Md. Code, Elec. L. § 6-210(a)(2) and (b).
42. Plaintiffs have been irreparably harmed by this violation as described above.

#### V. Prayer for Relief

WHEREFORE, as relief for the causes of action set forth in Counts I – IV herein, Plaintiffs respectfully request that this Court:

- A. Expedite review of this case pursuant to Md. Code, Elec. L. § 6-209(a)(3);
- B. Schedule an immediate scheduling conference for that purpose;
- C. Pursuant to Md. Code, Elec. L. § 6-209(a) and Md. R. 7-209, enter an order vacating the State Board's Advance Determination made on April 17, 2019, and Revised Advance Determination made on April 25, 2019, that the petition submitted on April 8, 2019, was insufficient because the legislation at issue was not subject to referral to referendum;
- D. Pursuant to Md. Code, Elec. L. § 6-209(a) and Md. R. 7-209, enter an order that SB 793, or Sections 2 and 3 thereof, is subject to referral;
- E. Issue a declaratory judgment that SB 793, or Sections 2 and 3 thereof, is subject to referral;
- F. Enter an order preliminarily enjoining the State Director of Elections, pursuant to Md. Code, Elec. L. § 6-206(b)(2), to defer a final determination of sufficiency pending validation and verification of signatures and the final judgment in this action;

