

MANDAMUS AS A DEMOCRACY TOOL

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ABSTRACT

Legal scholars recognize the centrality of state courts and procedures to United States democracy, but the study of state proceedings and their impact represents a largely unexplored arena. This Article illuminates one commonly ignored procedural area—the writ of mandamus, which is a centuries-old writ recognized in all fifty states that a court issues to compel performance of a duty by a court or public official. The Article examines mandamus concerning public officers—specifically governors and secretaries of state—through an empirical study of 497 state cases over the last almost two centuries.

The Article composes the first empirical national study of mandamus petitions seeking to command action by public officers. The central conclusion is that mandamus forms a valuable democracy tool for citizens, particularly for citizen-directed litigation aimed at pressing public officials to correctly conduct elections. This principal conclusion contributes to a range of insights, including the predominance of mandamus cases concerning officials' duties to conduct elections and certify candidates—and how these election cases display how individuals employed mandamus to press their democratic rights. The Article also recognizes the related trend of citizens employing mandamus to assert complaints arising from initiative and referenda processes, a finding that underscores how mandamus repeatedly supported direct democracy efforts.

Moreover, the Article brings a new perspective to recent scholarship that notes an increased politicization and frequency of state court mandamus filings and the related area of original jurisdiction. In contrast, this Article—with evidence from hundreds of cases—uncovers individuals' and political groups' enabling use of mandamus, including through its somewhat increased use over the last quarter century. Although recognizing mandamus's potential drawbacks, the Article seeks to establish and encourage the role of mandamus as an accessible and powerful mechanism to support citizens' rights and hold public officers accountable to perform duties.

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INTRODUCTION

In August 2024, James N. Clymer and Steven E. Sylvester, as candidates for President and Vice President of the United States for the Constitution Party, petitioned a Pennsylvania appellate court for a writ of mandamus to compel the secretary of state to accept their nomination papers, notwithstanding that four of their nineteen electors failed to file the required candidate affidavits.¹ The court concluded that Clymer and Sylvester's constitutional challenge to the candidate affidavit requirement was properly before the court on mandamus contesting the secretary's action.² But the court denied mandamus, holding that the burden from the affidavit requirement was minor and interests in election administration and integrity justified the requirement.³

1. Clymer v. Schmidt, 324 A.3d 640, 642 (Pa. Commw. Ct. 2024).

2. *Id.* at 655.

3. *Id.* at 657–58.

Four years prior in 2020, five inmates at Washington state penitentiaries filed a mandamus petition to compel Governor Jay Inslee and the Washington Department of Corrections secretary to reduce the number of state prisoners by releasing 13,000 inmates in order to “take all reasonable steps to protect people in prison from COVID-19.”⁴ The Supreme Court of Washington denied mandamus to the inmates because the inmates had not identified any clear legal duty that the governor and secretary breached, as no law commanded them to release the prisoners.⁵ In addition, the court concluded, “our job is to say what the law is, not to dictate how another branch should do its job.”⁶

Almost ninety years prior in 1932, Governor Miriam Ferguson—the first woman to serve as governor of Texas—sought election for a second term.⁷ When the current Governor R.S. Sterling sued to block her certification as the Democratic nominee for governor based on Sterling’s allegations that Ferguson “received many illegal votes,” Ferguson, “joined pro forma by her husband,” former Governor James E. Ferguson, filed a mandamus petition to compel the Texas secretary of state to certify Ferguson’s name as the nominee for the Democratic Party.⁸ The Texas Supreme Court ruled that Sterling’s election contest lacked merit and granted Ferguson’s mandamus petition, directing that the Texas secretary of state certify Ferguson’s name as the Democratic nominee for governor to the county clerks by telegram.⁹

Yet eight decades earlier during the Civil War, voters in the election to adopt a new state constitution in Maryland to recognize the emancipation of former slaves, sought issuance of a writ of mandamus against the governor to determine the number of votes cast, to count rejected votes, and to reject others cast at an allegedly incorrect election precinct.¹⁰ The Maryland Court of Appeals denied the mandamus petition, concluding that the governor’s acts in receiving, counting, and determining whether a majority voted in favor and his issuance of a proclamation of adoption called for executive judgment and discretion—and, as a result, were not subject to mandamus by the judiciary.¹¹ On the same day the court denied mandamus, the governor certified the election totals.¹² Three days

4. *Colvin v. Inslee*, 467 P.3d 953, 957, 962 (Wash. 2020).

5. *Id.* at 962.

6. *Id.*

7. See *Sterling v. Ferguson*, 53 S.W.2d 753, 754 (Tex. 1932); *Miriam “Ma” Ferguson*, HUMANS. TEX., <https://www.humanitiestexas.org/programs/tx-originals/list/miriam-ma-ferguson> (last visited Apr. 21, 2026).

8. *Sterling*, 53 S.W.2d at 754.

9. *Id.* at 763.

10. *Miles v. Bradford*, 22 Md. 170, 171, 182–83 (Md. 1864); *Maryland Constitutional Convention of 1864*, ARCHIVES OF MD., <https://msa.maryland.gov/msa/speccol/sc2600/sc2685/html/conv1864.html> (last visited Jan. 3, 2026).

11. *Miles*, 22 Md. at 183–85.

12. *Id.* at 170; *Maryland Constitutional Convention of 1864*, *supra* note 10.

later, the Maryland Constitution of 1864 abolishing slavery in Maryland went into effect.¹³

Each of these four cases exemplifies the central role played by the writ of mandamus to compel action by public officials in a broad array of state court cases over the last almost two centuries. The cases demonstrate the consistency of employing the writ, the breadth of social and political issues involved, and the hot-topic political cases and pedestrian matters covered by the writ against public officers. Yet, notwithstanding the richness, long history, and current consequence of mandamus cases, there is a dearth of literature concerning mandamus proceedings in state courts, just as there is about state proceedings generally. This deficiency exists even though legal scholars recognize the centrality of state courts and procedures to United States democracy.¹⁴

This Article illuminates this largely unexplored state-court procedural area of the writ of mandamus concerning public officers through an empirical study of 497 state cases over the last almost two centuries. Centrally, the Article concludes that mandamus forms a valuable tool to help promote and enforce citizens' democratic rights, particularly in citizen-initiated litigation aimed at pressing public officials to correctly conduct elections. The Article both displays the democracy-enabling aspects of mandamus and indicates means to optimize mandamus's positive citizen-oriented aspects while circumventing the hazards of overuse or abuse.

A centuries-old writ meaning "we command," mandamus is recognized in all fifty states and involves a court issuing a writ of mandamus to compel performance of a duty by a court or public official.¹⁵ In addition, mandamus is a powerful and efficient remedy, as original jurisdiction lies in the state's highest court in most states.¹⁶ This Article comprises the first empirical study of mandamus writs filed in all fifty states against public officers. The study focuses on mandamus petitions filed to compel action by governors and secretaries of state, two of the top officers in each state.

Analyzing the group of almost-500 mandamus proceedings decided between 1839 and 2024 makes clear previously inaccessible insights, including four central to this study. First, this study brings a new perspective to recent scholarship that notes an increased politicization and frequency of state court mandamus filings and the related area of original jurisdiction. In contrast, this Article—with evidence from hundreds of

13. *Maryland Constitutional Convention of 1864*, *supra* note 10.

14. Marin K. Levy, *Packing and Unpacking State Courts*, 61 WM. & MARY L. REV. 1121, 1132 (2020).

15. Paul R. Gugliuzza, *The New Federal Circuit Mandamus*, 45 IND. L. REV. 343, 351 (2012).

16. Jonathan L. Marshfield, *The Writ of Mandamus in State Courts*, STATE CT. REP. (Jan. 9, 2024), <https://statecourtreport.org/our-work/analysis-opinion/writ-mandamus-state-courts>.

cases—uncovers individuals’ and political groups’ empowering use of mandamus to advance individual claims and political causes, including through the writ’s somewhat increased use over the last quarter century. Second, the Article identifies the central significance and frequency of mandamus cases concerning elections, particularly regarding duties to properly conduct elections and certify candidates and highlights how the predominance of these election-oriented cases demonstrates how citizens and candidates repeatedly employed mandamus to advance their democratic rights and concerns. Third, the Article perceives the related trend of citizens employing mandamus to pursue complaints regarding errors in the enactment or repeal process for initiatives and referenda—emphasizing again the repeated use of mandamus to support direct democracy efforts. Fourth, the Article both recognizes mandamus’s potential shortcomings and promotes continued and heightened use of mandamus as a democratic tool, particularly to ensure officials’ performance of election processes. In total, the Article aims to encourage and establish the role of mandamus as a powerful and accessible mechanism to support citizens’ democratic rights and ensure public officers perform required duties.

The Article proceeds in four parts: Part I focuses on the meaning, history, and past scholarship concerning mandamus. This Part clarifies the limited scope of past studies of mandamus and how this Article’s nationwide empirical study of public-officer mandamus explores an uncharted but central area. Part II presents the nationwide development of public-officer mandamus over time, including the laws of all states, the provision of original jurisdiction, trends in filings, and grant rates. Among the findings is a recent but modest increase in hotly politicized mandamus cases. This Part also considers the distinct types of cases directed at governors and secretaries of state, and petitioners’ success towards both officials.

Part III explores the citizen-empowering aspects of mandamus. The study concludes that elections—particularly concerning election processes and election candidates—formed the most common subject matter of all petitioners’ mandamus writs filed over the 180 years of the study. And data reveals a notable rise in election mandamus filings over the last quarter century and a concentration of mandamus cases involving the direct-democracy initiative and referenda processes. The data also illustrates that many of the petitioners in these election cases were citizens and citizen groups. Part IV investigates these trends concerning the subject, grant rates, and dominance of election cases with a directed focus on the two states with the highest number of governor and secretary of state mandamus cases: Ohio and Florida. Lastly, Part V recognizes the benefits and drawbacks of employing mandamus, centrally focusing on the positive use of mandamus to press democratic rights in the election process. In sum, the Article aims to elucidate both (1) how petitioners em-

ployed mandamus against public officers over almost two centuries, particularly pressing rights in election processes, and (2) how mandamus provides an avenue to promote individuals' democratic rights and ensure public officials properly perform required duties.

I. THE MEANING, HISTORY, AND SCHOLARLY TREATMENT OF MANDAMUS

A writ of mandamus issued by a court compels "performance of a particular act by a lower court or a governmental officer or body" usually in order "to correct a prior action or failure to act."¹⁷ The command issues from a court in the name of the state or sovereign to a public officer or inferior court to require "the performance of a particular duty" that arises from the "official station of the party" against whom the writ issues.¹⁸ Mandamus aims to ensure performance by public officials of public rights, not to vindicate private rights or correct private violations.¹⁹

The history of mandamus stretches back centuries, originating in England as one of the writs issued by the sovereign to direct subjects to perform actions.²⁰ Beginning in the thirteenth century, the royal writ transformed into a judicial writ issued by the Court of the King's Bench to prod action by dilatory public officials.²¹ The King's Bench protected public rights and granted mandamus when no other legal remedy existed to restore or protect that public right.²² Sir Edward Coke issued the foundational opinion for the modern writ of mandamus in *Bagg's Case*²³ in 1615.²⁴ The case involved issuing the writ against public officers to perform a duty: James Bagg held office as one of the chief burgesses of the borough of Plymouth. Borough officials removed Bagg for speaking ill of other burgesses, the mayor, and other officials.²⁵ Coke issued the writ of mandamus compelling the borough officials to restore Bagg to office,

17. *Mandamus*, BLACK'S LAW DICTIONARY (12th ed. 2024); see Derek T. Muller, *Election Subversion and the Writ of Mandamus*, 65 WM. & MARY L. REV. 327, 332 (2023); Gugliuzza, *supra* note 15, at 351 (meaning "we command").

18. JAMES L. HIGH, A TREATISE ON EXTRAORDINARY LEGAL REMEDIES: EMBRACING MANDAMUS, QUO WARRANTO AND PROHIBITION 4 (Callaghan & Co. 1896).

19. *Id.*; Muller, *supra* note 17, at 332–33.

20. HIGH, *supra* note 18, at 5.

21. Warren M. Goodrich & Al J. Cone, *Mandamus in Florida*, 4 FLA. L. REV. 535, 535 (1951); Marshfield, *supra* note 16.

22. Muller, *supra* note 17, at 335.

23. (1615) 77 Eng. Rep. 1271, 1272; 11 Co. Rep. 93 a, 94 a.

24. Gugliuzza, *supra* note 15, at 352; Kathryn A. Brown & Michael H. Shaut, *The Use of Mandamus to Control Prosecutorial Discretion*, 13 AM. CRIM. L. REV. 563, 565 (1976) (noting that *Bagg's Case* is "traditionally regarded as the case creating the writ of mandamus"); Jamieson Knopf, Comment, *The New 'Renegade Jurisdiction': How the Fifth Circuit Can Prevent the Extraordinary Writ of Mandamus from Becoming an Extra-Ordinary Remedy*, 30 GEO. MASON L. REV. 831, 840 (2023).

25. Gugliuzza, *supra* note 15, at 352.

concluding that the officials acted without authority in removing him without providing him with an opportunity to object or notice.²⁶

In addition to mandamus issuing against public officials, the writ eventually expanded to also issue against inferior courts.²⁷ These mandamus writs directed to lower tribunals restrained courts from exercising power the courts did not have or required courts to exercise vested powers.²⁸ In his eighteenth-century Commentaries, William Blackstone described mandamus focusing on the writ directed to courts:

[Mandamus] issues to the judges of any inferior court, commanding them to do justice according to the powers of their office, whenever the same is delayed. For it is the peculiar business of the court of king's bench to superintend all inferior tribunals, and therein to enforce the due exercise of those judicial or ministerial powers, with which the crown or legislature have invested them: and this not only by restraining their excesses, but also by quickening their negligence.²⁹

By the close of the 1700s, the King's Bench established two requirements that continue to apply to mandamus today: that the movant have a clear right to the relief and lack another adequate legal remedy to gain relief.³⁰

Early federal courts in the United States adopted mandamus largely in its English form and continued to stress the writ's central function to compel a person—including judges or members of the legislative and executive branches—to perform non-discretionary duties.³¹ In the Judiciary Act of 1789, the First Congress authorized the judiciary to issue “writs of mandamus, . . . in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States.”³² As a result, the Judiciary Act—like English law—recognized two primary subjects of mandamus: courts and persons holding public office.³³ Early United States courts likewise employed mandamus usually for only two purposes: to compel a public official to perform a duty or to correct court actions inconsistent with a court's jurisdiction.³⁴

26. *Id.* at 352–53; David M. Gunn & Wallace B. Jefferson, *Effectively Using Mandamus and Emergency Appellate Relief*, 103 THE ADVOC. (TEX.) 375, 378 (2023).

27. Gugliuzza, *supra* note 15, at 353.

28. *Id.*

29. 3 William Blackstone, Commentaries *110, *quoted in* Gugliuzza, *supra* note 15, at 353.

30. Audrey Davis, *A Return to the Traditional Use of the Writ of Mandamus*, 24 LEWIS & CLARK L. REV. 1527, 1533, 1535 (2020).

31. *Id.* at 1543–44; Knopf, *supra* note 24, at 841.

32. Judiciary Act of 1789, ch. 20, §§ 13–14, 1 Stat. 73, 81–82; *see* Knopf, *supra* note 24, at 841; Gugliuzza, *supra* note 15, at 353–54; Brown & Shaut, *supra* note 24, at 567.

33. Judiciary Act of 1789, ch. 20, § 13, 1 Stat. 73, 81.

34. Knopf, *supra* note 24, at 841.

Chief Justice Marshall's seminal decision in *Marbury v. Madison*³⁵ featured a prominent example of the writ of mandamus employed to prompt performance of an official duty.³⁶ Although *Marbury* famously established the Supreme Court's power of judicial review, the *Marbury* court also decided issues regarding the role and scope of mandamus: Marshall concluded that Marbury had a vested legal right in his commission as justice of the peace in the District of Columbia and that the writ of mandamus was the appropriate remedy to compel Secretary of State James Madison to deliver Marbury's commission.³⁷

Marbury had another effect on federal mandamus availability: The Supreme Court in *Marbury* construed Article III of the Constitution as proscribing Congress from granting the Supreme Court unbounded original jurisdiction of mandamus petitions.³⁸ Instead, the All Writs Act of 1948 (which followed the Judiciary Act of 1789) effectively places original jurisdiction of mandamus petitions with the federal district courts, and rulings on the petitions are subject to appellate review.³⁹

Yet mandamus jurisdiction and practice varies between the federal and state systems: while the federal government has largely restricted original jurisdiction for mandamus practice in the United States Supreme Court, the constitution and statutes in numerous states dictate that original jurisdiction over mandamus lies in the states' highest court.⁴⁰ This original jurisdiction in the state (often highest) court stretched back to the high courts of the American colonies, which likewise had original jurisdiction over mandamus petitions.⁴¹ Jurists on the states' highest courts reasoned that, as the "supreme" courts of the states, they had similar powers to the Court of King's Bench in "having a superintending power over inferior courts of jurisdictions."⁴² As a result, they are "invested with similar powers" to "interpose in a summary way to supply a remedy" when "there would otherwise be a failure of justice."⁴³ As discussed in the next Part—and of central significance for this Article—this state-law approach to mandamus applies in the context of petitions involving public officers including governors and secretaries of state, as many

35. 5 U.S. 137, 153–54 (1803).

36. *Id.*; Knopf, *supra* note 24, at 841–42; see Muller, *supra* note 17, at 339.

37. *Marbury*, 5 U.S. at 162, 168, 173; see Muller, *supra* note 17, at 339; Peggy M. Tobolowsky, *Mandamus Muddle: The Mandamus Review Standard for the Federal Crime Victims' Rights Act*, 5 U. DENV. CRIM. L. REV. 123, 130 (2015) (noting definition of mandamus from Blackstone quoted in *Marbury*).

38. Marshfield, *supra* note 16.

39. *Id.*

40. *Id.*

41. James E. Pfander, *Marbury, Original Jurisdiction, and the Supreme Court's Supervisory Powers*, 101 COLUM. L. REV. 1515, 1534 (2001).

42. *Runkel v. Winemiller*, 4 H. & MCH. 429, 449 (Md. 1799); see Pfander, *supra* note 41, at 1534–35.

43. *Runkel*, 4 H. & MCH. at 449; see Pfander, *supra* note 41, at 1534–35 (recognizing that Maryland, Massachusetts, Connecticut, New York, Pennsylvania, Delaware, and Virginia all asserted power to issue mandamus to officers and inferior courts).

states grant original jurisdiction over mandamus petitions concerning public officers to the state's highest court.⁴⁴

Notwithstanding this federal and state diversity in jurisdictional approaches, the law of mandamus in the United States maintained—and continues to maintain—consistency with English practice in the requirements for mandamus. A United States treatise published in 1874 reflected that the requirements for mandamus remained similar to those required by the King's Bench in England a century earlier: Mandamus required (1) “that the relator has a clear, legal right to the performance of a particular act or duty at the hands of the respondent” and (2) “that the law affords no other adequate or specific remedy to secure the enforcement of the right and the performance of the duty which it is sought to coerce.”⁴⁵ Of central concern for this study, mandamus continued to focus on public officers. The nineteenth-century treatise confirmed that the “modern writ of mandamus” in the United States constituted a command by a common law court “in the name of the state or sovereign, directed to some corporation, officer, or inferior court, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from operation of law.”⁴⁶

For the last century, mandamus in the United States—with some variety between the states—has common requirements and features.⁴⁷ These central features resemble those requirements imposed by English common law and shaped by United States decisions including *Marybury*.⁴⁸ These conditions include that mandamus may issue against individuals with duties to enforce public obligations or rights, often public officials.⁴⁹ Petitions for writ of mandamus cannot issue against private individuals.⁵⁰ Moreover, the public official must have a clear legal duty to perform, often described as a ministerial duty, as opposed to a discretionary action.⁵¹ To meet this requirement, courts often refer to the petitioner having a “clear legal right” to the remedy of the public official performing the clear legal duty.⁵² Third, mandamus may issue when there is no other adequate legal remedy.⁵³ In Texas, for example, there must be “no adequate remedy by appeal”—but the Supreme Court of Texas recognizes that “adequate” has “no comprehensive definition” but is “a proxy for the careful balance of jurisprudential considerations that

44. See discussion *infra* Section II.A.

45. HIGH, *supra* note 18, at 379.

46. *Id.* at 378.

47. Muller, *supra* note 17, at 340.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at 340–41.

53. *Id.* at 342.

determine when appellate courts will use original mandamus proceedings to review the actions of lower courts.”⁵⁴ Moreover, Professor Charles Alan Wright recognized the value of mandamus as “a valuable ad hoc relief valve for the pressures that are imperfectly contained by the statutes permitting appeals from final judgments and interlocutory orders.”⁵⁵ Lastly, a court’s grant of mandamus is discretionary.⁵⁶ As Justice Brandeis expressed in 1917, “Mandamus is an extraordinary remedial process which is awarded, not as a matter of right, but in the exercise of a sound judicial discretion.”⁵⁷

Although mandamus has these common characteristics, the application of these requirements may differ depending on whether a mandamus petition seeks correction of action by a lower court or seeks performance of a duty by a public official. For example, to meet the standard for mandamus relief concerning a lower court’s action in Texas, “the relator must demonstrate that the lower court committed a clear abuse of discretion and that there is no adequate remedy at law, such as a normal appeal.”⁵⁸ In contrast, a distinct standard often applies to mandamus petitions seeking action by a public official, as mandamus does not issue to compel exercise of discretionary duties but rather issues to command the official to exercise a ministerial duty. An example from Missouri emphasizes that “[m]andamus will issue only when there is an unequivocal showing that the public official failed to perform a ministerial duty imposed by law.”⁵⁹

Moreover, although the majority of mandamus petitions filed in state court concern writs requesting that the court compel a lower court to change its decision or action, writs of mandamus asking the court to compel public officials to perform a duty are also common.⁶⁰ Such mandamus filings concerning public officers include a broad array of subjects: benefit recipients seeking review of administrative decisions; citizens seeking to enforce sunshine law compliance by the state; prisoners using mandamus to review parole decisions and confinement condi-

54. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004); see *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (quoting *Holloway v. Fifth Ct. of Appeals*, 767 S.W.2d 680, 684 (Tex. 1989)) (stating mandamus is an “extraordinary remedy” that issues “only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies”).

55. 16 CHARLES ALAN WRIGHT, ARTHUR R. MILLER, & EDWARD H. COOPER, *FEDERAL PRACTICE AND PROCEDURE* § 3934.1 (1996); see *In re Prudential*, 148 S.W.3d at 137 n.53.

56. *Muller*, *supra* note 17, at 342–43.

57. *Duncan Townsite Co. v. Lane*, 245 U.S. 308, 311 (1917); see *People v. Ostuni*, 58 P.3d 531, 533 (Colo. 2002) (stating mandamus relief is “extraordinary . . . and is a matter wholly within the discretion of the supreme court”); see also *Davis*, *supra* note 30, at 1528 (criticizing “wide discretion held by appellate courts” in the federal system as the discretion “leaves many litigants without the ability to comfortably predict the strengths of their potential petitions”).

58. *In re Williams*, No. 03-25-00013-CV, 2025 WL 209427, at *1 (Tex. App.—Austin, Jan. 15, 2025) (citing *Walker v. Packer*, 827 S.W.2d at 840).

59. *Jones v. Carnahan*, 965 S.W.2d 209, 213 (Mo. Ct. App. 1998).

60. *Marshfield*, *supra* note 16.

tions.⁶¹ And filings likewise feature highly politicized instances of the use of mandamus to seek state supreme court review, including petitioners requesting that state officials fund public education, even in light of contrary legislation, purge voter rolls, and vacate a prosecutor's suspension by the governor.⁶² More broadly, original jurisdiction—which often involves a mandamus petition—involves a broad array of hot topics over recent years: from abortion, to COVID-19 mitigation, climate change, elections, gerrymandering, and the death penalty.⁶³

Notwithstanding the centuries-old existence of mandamus—both mandamus petitions directed to lower courts and directed to public officials—scholarship concerning mandamus is sparse. Where studies exist, they often are limited to a certain jurisdiction or discrete subject matter. Studies include mandamus in the context of intellectual property cases,⁶⁴ election contests,⁶⁵ and criminal law,⁶⁶ while others focus on mandamus in the federal court context.⁶⁷ Other mandamus scholarship concentrates on particular states, including Florida⁶⁸ and Texas.⁶⁹

Two recent valuable studies take a broader view. Zachary D. Clopton, in *Power and Politics in Original Jurisdiction*, investigates original jurisdiction in state supreme courts, with mandamus being one of the avenues for original jurisdiction in a state's highest court.⁷⁰ Clopton recognizes the benefits of original jurisdiction (which includes mandamus) in enabling important legal questions to get before a state high court quickly and to provide answers to legal questions by the highest tribu-

61. *Id.*

62. *Id.*

63. Zachary D. Clopton, *Power and Politics in Original Jurisdiction*, 91 U. CHI. L. REV. 83, 83, 85–86 (2024).

64. See Gugliuzza, *supra* note 15, at 343. See generally Matthew Vitale, *Unstoppable Force Meets (Previously) Immovable Object: The Conflict Between Federal Circuit Mandamus and Trial-Court Deference in Patent Litigation*, 74 BAYLOR L. REV. 783 (2022).

65. See Muller, *supra* note 17, at 332; Lauren Lambert, *Michigan's Board of State Canvassers: The Use of Improper Means Toward Improper Ends*, 69 WAYNE L. REV. 795, 805–06 (2024).

66. See Brown & Shaut, *supra* note 24, at 563–64; Tobolowsky, *supra* note 37, at 124.

67. See Davis, *supra* note 30, at 1528. See generally Danny S. Ashby, David Coale, & Christopher D. Kratovil, *The Increasing Use and Importance of Mandamus in the Fifth Circuit*, 43 TEX. TECH L. REV. 1049 (2011). Charles Robert Janes, Note, *Mandamus as a Means of Federal Interlocutory Review*, 38 OHIO STATE L.J. 301 (1977); *Supervisory and Advisory Mandamus under the All Writs Act*, 86 HARV. L. REV. 595, 595–96 (1973); Knopf, *supra* note 24, at 833.

68. See Goodrich & Cone, *supra* note 21, at 535.

69. See Douglas S. Lang, *Survey of Recent Mandamus Decisions of the Texas Supreme Court*, 10 SMU ANNUAL TEX. SURVEY 99 (2024); Gunn & Jefferson, *supra* note 26, at 377; Marialyn Barnard, Lorien Whyte, & Emmanuel Garcia, *Is My Case Mandamusable: A Guide to the Current State of Texas Mandamus Law*, 45 ST. MARY'S L.J. 143, 146 (2014); Timothy Delabar, *The Next Thirty Years: Developments in Mandamus Jurisprudence in the Last Thirty Years and Why the General Rule that Mandamus Is Unavailable to Review the Denial of Summary Judgment is Inconsistent with Modern Mandamus Jurisprudence Under the in re Prudential Balancing Test*, 55 ST. MARY'S L.J. 351, 354 n.2 (2024).

70. Clopton, *supra* note 63, at 95–96. Clopton noted the dearth of scholarly literature concerning original jurisdiction in state supreme courts, but the considerable practical significance of state supreme court original jurisdiction. *Id.* at 83.

nal.⁷¹ One of Clopton's central points is that original jurisdiction is not an inconsequential legal area but rather constitutes a central mechanism for "managing—if not manipulating—public policy in the states" that he anticipates will grow in importance and significance in upcoming years.⁷² Further, Jonathan L. Marshfield, in his significant piece entitled *The Writ of Mandamus in State Courts* in the *State Court Report* newsletter, focuses more narrowly on mandamus orders in state courts requiring government officers to perform their public duties.⁷³ He concludes that use of mandamus has accelerated in recent years as increased polarization and partisan fights have led litigants to increasingly employ mandamus to address political issues.⁷⁴ Marshfield recognizes that filing a petition for writ of mandamus in a state's high court enables litigants to bring their desired—at times deeply contested legal issues—before the high court "where a few judges can decide the fate of an election, the candidates on a ballot, or the allocation of state funds."⁷⁵

This Article builds upon and expands beyond existing scholarship by examining a broader swath of data to examine a targeted topic: mandamus petitions in each of the fifty states since the nineteenth century that are available on Westlaw involving the governor or the secretary of state.⁷⁶ Centrally, the study establishes (1) the significance and breadth of the subject of mandamus petitions over centuries including during recent years, (2) the increased presence of—but sporadic and relatively low numbers—of high-profile, politicized mandamus cases, and (3) how citizens have employed mandamus particularly with respect to elections to exercise democratic rights in an empowering, relatively swift procedure often before a state's highest court.⁷⁷

The reasons for the focus on the cases concerning the governor and secretary of state are twofold: First, the subjects of mandamus petitions against public officials are wide-ranging and involve a multitude of appointed and elected officials—from county boards of election and education to prison wardens to the governor.⁷⁸ One object of this study is to gauge the significance and political nature of mandamus petitions in each state both today and over time. Mandamus petitions involving two of the highest-ranking officials in each state grant a targeted and revealing pic-

71. *Id.* at 130.

72. *Id.* at 92, 147–48.

73. Marshfield, *supra* note 16.

74. *Id.*

75. *Id.*

76. *See infra* Parts II, III, and IV.

77. *See* Marshfield, *supra* note 16 (concluding "mandamus is yet another reason why state courts and constitutions matter now more than ever for the future of American democracy and the rule of law").

78. *See id.* (providing examples of mandamus petitions from numerous states involving candidates on the ballot, state officials financing education, state electoral commission, a request for a governor to vacate a prosecutor's suspension, and the secretary of state and ballot board to remove a reproductive rights amendment from a ballot).

ture of the political or pedestrian nature of mandamus involving public officials.

Second, given the governor and secretary of state's position with executive power and authority over subjects concerning elections, mandamus petitions involving those two officials would be more likely than petitions concerning lower ranking state official to involve politicized and governmentally or socially significant issues affecting the populace, elections, and governance of a state.⁷⁹ Undoubtedly, focusing solely on cases involving the governor and secretary of state of each state excludes numerous other mandamus cases directed at public officials.⁸⁰ But structuring the study to focus on all public-officer mandamus filings in all fifty states that involve the governor or secretary of state, beginning with the earliest available cases and continuing to the current day, has advantages. These cases filed over almost two centuries and involving the two officers at the head of state government or in charge of elections and numerous other state official duties provide both a historical record and valuable insights into the role and significance of mandamus writs compelling action by public officers over time, whether these were hot-point political issues or mundane, and what rights petitioners sought to enforce. It also reveals intersections and tensions between the judiciary and executive branches—both historically and today—and how and when courts have been willing to dictate executive action and if this readiness has shifted over time.⁸¹ Moreover, this fifty-state dataset provides an inclusive national picture previously unavailable. The cases form an overarching group, which includes each of the fifty states, and reveal the type of official conduct of concern in each state over time and currently.⁸²

The methodology of the study includes searching for all cases filed during the history of each state (and available on Westlaw)⁸³ in which

79. See *id.* (noting governors and secretaries of state being parties to increasingly frequent political conflict in states, with governors conflicting with education boards and election commissions while secretaries of state disagree with governors and other officials over ballot issues and also concluding state courts use mandamus to enforce constitutional directives on public officials, including the governor); see also Clopton, *supra* note 63, at 142 (discussing expansion of original jurisdiction by legislatures to cover, among other subjects, governors' authority).

80. See Marshfield, *supra* note 16 (discussing mandamus cases involving public officials other, including cases not involving the governor or secretary of state).

81. See Levy, *supra* note 14, at 1132 (noting the state court system is relatively understudied and more difficult to study than the federal courts).

82. See *infra* Part II.

83. The historical coverage of case law available on Westlaw varies for each state as does the availability of cases for intermediate courts of appeals and trial courts. But, as this list of available state supreme court cases available on Westlaw makes clear, for numerous states, the historical coverage stretches back to the late eighteenth to early nineteenth centuries, with most available beginning in the mid-nineteenth century. See *Westlaw Precision* (indicating the coverage for the state supreme court in each state begins: Alabama (1820); Alaska (1959); Arizona (1866); Arkansas (1837); California (1850); Colorado (1864); Connecticut (1786); Delaware (1792); Florida (1846); Georgia (1846); Hawaii (1847); Idaho (1866); Illinois (1819); Indiana (1817); Iowa (1839); Kansas (1858); Kentucky (1793); Louisiana (1809); Maine (1820); Maryland (1787); Massachusetts (1804);

either or both of the governor and secretary of state were involved that fell under the Westlaw Key Number “Acts and Proceedings of Public Officers and Boards and Municipalities” under the general headings “Mandamus” and “Subjects and Purposes of Relief.”⁸⁴ These cases involving the governor and secretary of state were consequently distinct from cases involving writs of mandamus filed against a lower court to compel the court to change a ruling or action. The results of the research concerning governor and secretary of state mandamus filings included predominantly state supreme court cases, but also—to a much lesser degree—state intermediate appellate courts and trial courts.⁸⁵ The coverage of the governor and secretary of state mandamus cases in the Westlaw key number system was not fail-safe, for those cases that did not include that coded number were not included in the search results. Indeed, the database includes two applicable cases that became apparent in the course of research that did not include the key number.⁸⁶ Yet acknowledging the possibility of additional cases not accounted for in the almost 1,000 cases considered, the assembled database and its national coverage reveal trends since the nineteenth century to today, as well as the role and significance of these public-officer mandamus proceedings.

II. THE NATIONWIDE PICTURE OF PUBLIC-OFFICER MANDAMUS OVER TIME

In total, this study resulted in 963 case search results—plus the two added cases referenced above—which after review and omission of duplicates and inapplicable cases, resulted in 497 cases involving writs of mandamus filed against (and much less commonly by) the governor or secretary of state of each state. Two hundred nine concerned governors and 298 involved secretaries of state (including ten involving both the governor and secretary of state). And 417—representing 84%—were

Michigan (1805); Minnesota (1851); Mississippi (1818); Missouri (1821); Montana (1868); Nebraska (1860); Nevada (1865); New Hampshire (1816); New Jersey (1789); New Mexico (1852); New York (1847); North Carolina (1806); North Dakota (1867); Ohio (1821); Oklahoma (1890); Oregon (1853); Pennsylvania (1754); Rhode Island (1828); South Carolina (1868); South Dakota (1867); Tennessee (1811); Texas (1840); Utah (1861); Vermont (1789); Virginia (1790); Washington (1854); West Virginia (1864); Wisconsin (1839); Wyoming (1870)).

84. This research included searching for all cases including “Governor” and all cases including “Secretary of State” for each state in the headnotes under the Key Number is 250II(B) for Mandamus: Subjects and Purposes of Relief—Acts and Proceedings of Public Officers and Boards and Municipalities” in December 2024 and January 2025. See Westlaw Precision Key Number System. Although Key Number 250II(B) broadly includes numerous and wide-ranging subjects of mandamus cases concerning “Public Officers,” and resulted in a study of almost 1,000 cases, the study may have omitted (1) mandamus cases employing that Key Number that do not refer to the “governor” or “secretary of state” in the applicable headnotes and (2) mandamus cases involving the governor or secretary of state that do not involve that Key Number 250II(B).

85. See *infra* Part II (including research results, reflecting intermediate courts of appeals and trial courts deciding public-officer immunity cases, but much less commonly than state supreme courts).

86. See *Ruerat v. Cappelli*, 188 A. 637 (R.I. 1936); *State ex rel. Ohioans United for Reprod. Rts. v. Ohio Ballot Bd.*, 237 N.E.3d 1 (Ohio 2023) (public-officer mandamus cases involving secretary of state included in study but not listed under Key Number).

decided by (and most originally filed in) the state supreme court, reflecting the widespread nature and impact of original jurisdiction for mandamus in the states' highest tribunals.⁸⁷

A. State Mandamus Laws and Original Jurisdiction

All fifty states enable petitioners to seek mandamus to compel action by public officials.⁸⁸ Indeed, the ability to challenge the acts of public officials—often directly in the state's highest court—through a writ of mandamus is a well-ingrained constitutional, statutory, or common law right in all fifty states. Twenty-nine state constitutions provide for court jurisdiction over mandamus proceedings, most of which provide original jurisdiction in the state supreme court, and many specifically authorize mandamus proceedings against public officers.⁸⁹ Likewise, statutes and rules in thirty-two states provide for mandamus to issue from courts—often with original jurisdiction in the state's highest court—and commonly against public officers.⁹⁰ Further, in those states where there is no constitutional or statutory provision providing for mandamus of public officials, case law recognizes applying mandamus to public officials.⁹¹

87. Clopton, *supra* note 63, at 96.

88. See *infra* notes 89–91 (citing state statutes, constitutional provisions, and case law providing for mandamus concerning public officials).

89. ARIZ. CONST. art. VI, § 5; CAL. CONST. art. VI, § 10; COLO. CONST. art. 6, § 3; DEL. CONST. art. 4, § 11 (mandamus of courts and judges); FLA. CONST. art. 5, § 3; IDAHO CONST. art. V., § 9; ILL. CONST. art. 6, § 4; KAN. CONST. art. 3, § 3; KY. CONST. § 110(2)(a); MICH. CONST. art. 6, § 4; MO. CONST. art. V, § 4(1); MONT. CONST. art. 7, § 2; NEB. CONST. art. V, § 2; NEV. CONST. art. 6, § 4; N.M. CONST. art. VI, § 3; N.D. CONST. art. VI, § 2; OHIO CONST. art. IV, § 2; OKLA. CONST. art. VII, § 4; OR. CONST. art. VII, § 2; R.I. CONST. art. X, § 2; S.C. CONST. art. V, § 5; S.D. CONST. art. V, § 5; TEX. CONST. art. V, § 3(a); UTAH CONST. art. VIII, § 3; VT. CONST. ch. 2, § 30; VA. CONST. art. VI, § 1; WASH. CONST. art. 4, § 4; W. VA. CONST. art. VIII, § 3; WYO. CONST. art. 5, § 3. For a valuable listing of “State Original Jurisdiction Laws”—which includes original jurisdiction laws more broadly, including mandamus, see Clopton, *supra* note 63, at 149–55 (finding that, for original jurisdiction (which is broader than and encompasses mandamus), constitutional provisions in forty-two states and statutes in thirty-six states provided for original jurisdiction, while thirty-four states had both). See also *id.* at 96 (recognizing “[t]hirty-four state high courts have original jurisdiction over petitions for some or all writs, such as the writs of mandamus and prohibition”).

90. ALA. CODE § 12-2-7 (2025); ALASKA STAT. § 22.05.010 (2025); CAL. CIV. PROC. CODE § 1085 (West 2025); GA. CODE ANN. § 9-6-20 (2025); HAW. REV. STAT. § 602-5 (2025); IDAHO CODE § 1-203 (2025); *id.* § 7-302; 705 ILL. COMP. STAT. 5/8 (2025); IND. CODE 34-27-3-1 (2025); IOWA CODE § 661.4 (2025); KAN. STAT. ANN. § 60-801 (2025); *id.* § 60-802; LA. CODE CIV. PROC. ANN. art. 3861 (2025); *id.* at art. 3863; ME. STAT. tit. 14, § 5301 (2025); MD. R. SPEC. P. 15-701 (2025); MICH. COMP. LAWS § 600.217 (2025); MINN. STAT. § 480.04 (2025); *id.* § 586.01; MISS. CODE ANN. § 11-41-1 (2025); MONT. CODE ANN. § 27-26-102 (2025); NEV. REV. STAT. § 34.160 (2025); N.H. REV. STAT. ANN. § 490:4 (2025); N.M. STAT. ANN. § 44-2-3 (2025); N.Y. C.P.L.R. LAW § 7801 (McKinney 2025); N.D. CENT. CODE § 27-02-04 (2025); *id.* § 32-34-01; OHIO REV. CODE ANN. § 2503.40 (LexisNexis 2026); OR. REV. STAT. § 34.110 (2025); 8 R.I. GEN. LAWS § 8-1-2 (2025); S.D. CODIFIED LAWS § 21-29-1 (2025); TEX. GOVT. CODE ANN. §§ 22.002(a), (c) (2025); TEX. ELEC. CODE ANN. § 273.061 (2025); UTAH CODE ANN. § 78A-2-201 (West 2025); UTAH R. CIV. P. 65B(d); VT. STAT. ANN. tit. 4, § 2 (2026); VA. CODE ANN. § 17.1-309 (2025); W. VA. CODE § 51-1-3 (2025); WYO. STAT. ANN. § 1-30-102 (2025).

91. See, e.g., *Waller v. Kelley*, 493 S.W.3d 757, 760 (Ark. 2016); *AvalonBay Cmty., Inc. v. Sewer Comm'n of City of Milford*, 853 A.2d 497, 505 (Conn. 2004); *Linardon v. Sec'y of Hous. and Econ. Dev.*, 190 N.E.3d 510, 512 (Mass. 2022); *Matter of Request to Modify Prison Sentences*, 231 A.3d 667, 686 (N.J. 2020); *Matter of Alamance Cnty. Ct. Facilities*, 405 S.E.2d 125, 135 (N.C.

The original jurisdiction of many state supreme courts over these state officer mandamus proceedings makes the mandamus writ powerful.⁹² As a result, a petitioner avoids the possibly extended process of lower court proceedings and subsequent appeal, which can frustrate litigation efforts, particularly for a time-sensitive issue.⁹³

B. Discovered Trends in Filings, Mandamus Subjects, and Grant Rates

Cases involving mandamus petitions against state governors and secretaries of state nationwide filed between 1839 and 2024 reflect three conclusions: First, as reflected in Figure 1, over most of the last almost two centuries, filings have been somewhat consistent—with an occasional substantial increase in a discrete year, but the mandamus petitions filed in those years with a high number of filings do not reflect a concentrated number of highly politicized cases or petitioners strategically employing mandamus for hot-button political or coordinated goals.

1991); *Voces De La Frontera, Inc. v. Clarke*, 891 N.W.2d 803, 807 (Wis. 2017); see *infra* Part III (discussing case law in forty-nine states concerning petitions for writs of mandamus against governors or secretaries of state).

92. Muller, *supra* note 17, at 367.

93. *Id.*

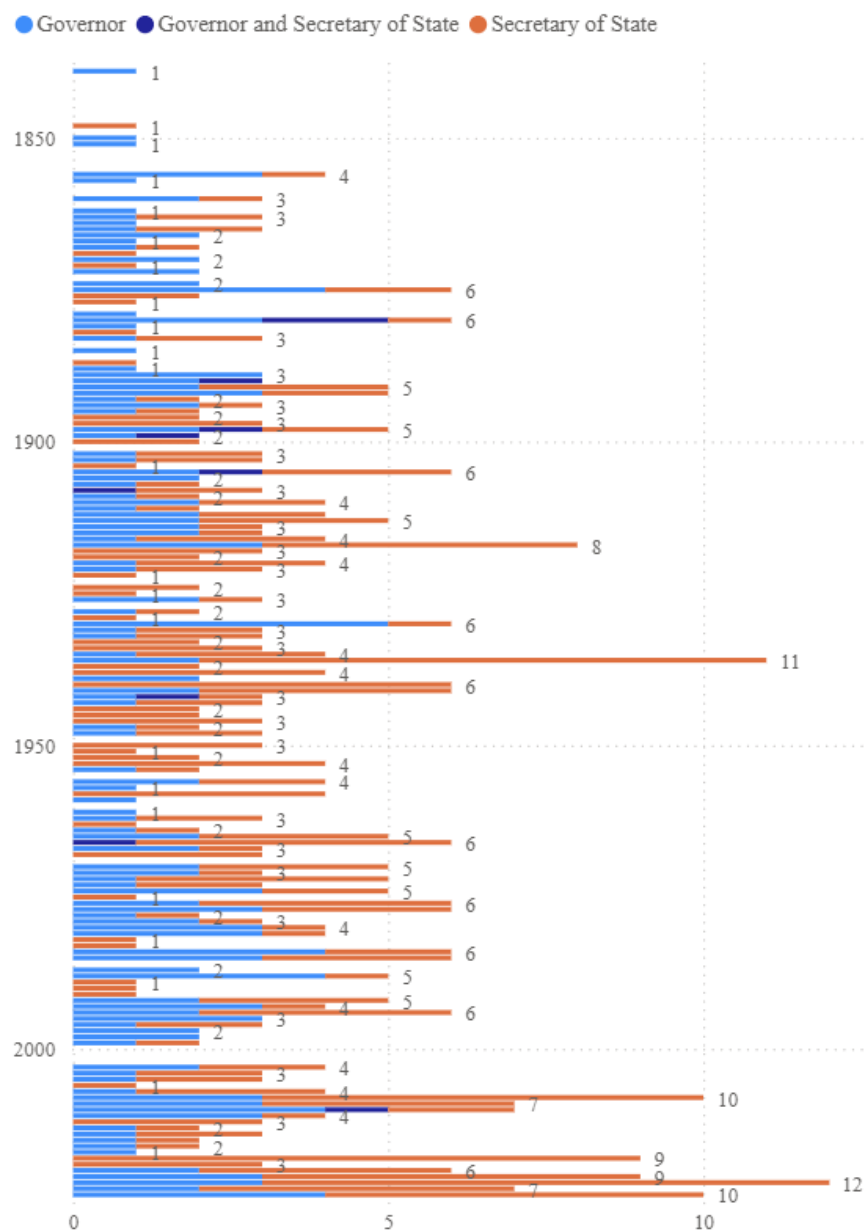


Figure 1: Mandamus Cases by Year (Governor & Secretary of State)

For example, in 1936, petitioners filed eleven cases involving mandamus concerning a governor or secretary of state, an amount greatly exceeding the four mandamus cases filed the year prior and two the year afterwards. But review of the cases filed in 1936 reflects broad-based subject matter in the eleven petitions from nine states and no reason why

petitioners all filed these cases in 1936.⁹⁴ The most politically charged 1936 case was the Florida case, *State ex rel. Jackson v. Gray*,⁹⁵ which denied mandamus to petitioners seeking the secretary of state's certification of Communist Party nominees for President, Florida Governor, and United States Senator because the petitioners did not meet the state statutory requirements to be nominated.⁹⁶ But this was the only public-officer mandamus case concerning the governor or secretary of state filed in Florida that year. And the other 1936 public-officer mandamus cases in this study are unrelated to the political issues in *Jackson*.

Second, there does appear to be an increase, as scholars have noted,⁹⁷ in recent years in the relative number of public-official mandamus cases filed—although the increase is sporadic over the years 2000 to 2024, and some years during that period featured low numbers of mandamus filings.⁹⁸ As reflected in Figure 1, a notable increase only occurred during five of the twenty-four years: 2008, 2018, 2021, 2022, and 2024.

Mandamus filings in 2008 involved ten petitions filed in seven states, with four filings originating in Ohio. Six of the ten concerned election processes (such as compelling the secretary of state to accept initiative petitions or declining to compel the governor to issue a writ of election setting the date of an election).⁹⁹ In 2018, all nine mandamus

94. *Cranford v. Jordan*, 61 P.2d 45, 46–47 (Cal. 1936) (mandamus not issued to compel secretary of state to file articles of incorporation); *State ex rel. Jackson v. Gray*, 170 So. 137, 139 (Fla. 1936) (mandamus not issued to direct secretary of state to certify petitioners as nominees for Communist Party for election); *State ex rel. Boone v. Gray*, 169 So. 611, 611–12 (Fla. 1936) (mandamus not issued to compel secretary of state to certify candidates expense report to place candidate on ballot); *Horrigan v. Rivers*, 187 S.E. 836, 838–39 (Ga. 1936) (mandamus not issued to compel secretary of state to publish proposed constitutional amendment); *Sherman v. Atwood*, 265 N.W. 483, 484 (Mich. 1936) (mandamus not issued to direct secretary of state to issue license plates); *Teseschi v. Mathis*, 183 A. 146, 146 (N.J. 1936) (mandamus not issued to compel secretary of state to file certificate of incorporation for corporation to practice optometry); *No. 17 Beekman Place v. Flynn*, 291 N.Y.S. 524–25 (N.Y. App. Div. 1936) (mandamus issue to direct secretary of state to file certificate of extension to corporate home for “delinquent and friendless women”); *Collom v. Cappelli*, 188 A. 645, 645 (R.I. 1936) (mandamus issued to compel secretary of state as part of vote tabulating committee to open voting machines and to make permanent record of votes); *Ruerat v. Cappelli*, 188 A. 637, 644 (R.I. 1936) (companion case to *Collum v. Cappelli* concerning grant of mandamus to direct secretary of state to open voting machines and tabulate votes); *Blalock v. Johnston*, 185 S.E. 51, 56–57 (S.C. 1936) (mandamus not issued for governor to appoint petitioner as county tax collector); *State ex rel. Kay v. LaFollette*, 267 N.W. 907, 908–09 (Wis. 1936) (mandamus not issued for governor to release prisoner from confinement).

95. 170 So. 137 (Fla. 1936).

96. *Id.* at 137–39.

97. Marshfield, *supra* note 16 (concluding “accelerated” use of mandamus “in high profile political cases”); see also Clopton, *supra* note 63, at 147–48 (concluding there is “a good chance” that original jurisdiction will “become more widespread and more significant in the coming years”).

98. See *supra* Figure 1.

99. *McCready v. Ill. Sec’y of State, White*, 888 N.E.2d 702, 712 (Ill. 2008); *Barbour v. State ex rel. Hood*, 974 So. 2d 232, 238, 243 (Miss. 2008); *State ex rel. Colvin v. Brunner*, 896 N.E.2d 979, 992 (Ohio 2008), *abrogated on other grounds by* *TWISM Enters., LLC v. State Bd. of Registration for Pro. Eng’rs & Surveyors*, 223 N.E.3d 371 (Ohio 2022); *Ala. Dep’t of Transp. v. Harbert Int’l, Inc.*, 990 So. 2d 831, 843–44 (Ala. 2008), *abrogated by* *Ex parte Moulton*, 116 So. 3d 1119 (Ala. 2013); *Hanabusa v. Lingle*, 198 P.3d 604, 615 (Haw. 2008); *Citizens Protecting Mich.’s Const.*

cases from six different states requested action from the secretary of state (not the governor) and involved issues involving election candidates or election processes, including recurrent electoral issues such as counting of ballots, legibility of text on ballots, and acceptance of a candidate's filing fee.¹⁰⁰ One case reflected politicized issues: *Citizens Protecting Michigan's Constitution v. Secretary of State*,¹⁰¹ which involved efforts by a ballot-question committee to reject an initiative petition to form an independent citizens commission to supervise legislative redistricting.¹⁰² The initiative sought to be "a desired means to remedy the widely-perceived abuses associated with partisan 'gerrymandering' of state legislative and congressional election districts by the establishment of new constitutionally-mandated procedures designed to ensure that the redistricting process can no longer be dominated by one political party."¹⁰³ After acknowledging the dangers of political redistricting, the court denied the writ of mandamus, deciding that the initiative did not impermissibly concern more than one subject.¹⁰⁴

Similar to 2018, in 2021, petitioners in seven states filed nine mandamus petitions, and many concerned election issues such as ballot language, appointment to a county board of elections, and placement of candidates on the ballot.¹⁰⁵ Also similar to 2018, one case may have involved heightened political issues: the Oregon case *State ex rel. Koteck v. Fagan*,¹⁰⁶ in which the court issued mandamus to require the secretary of state to comply with court-modified deadlines for the decennial legislative reapportionment, which were necessary because the COVID-19

v. Sec'y of State, 761 N.W.2d 210, 230 (Mich. Ct. App. 2008); *We the People Nevada ex rel. Angle v. Miller*, 192 P.3d 1166, 1178 (Nev. 2008); *State ex rel. Skaggs v. Brunner*, 900 N.E.2d 982, 992–93 (Ohio 2008); *State ex rel. Stokes v. Brunner*, 898 N.E.2d 23, 29 (Ohio 2008); *State ex rel. Summit Cnty. Republican Party Exec. Comm. v. Brunner*, 890 N.E.2d 888, 892 (Ohio 2008).

100. *Citizens Protecting Mich.'s Const. v. Sec'y of State*, 922 N.W.2d 404, 408 (Mich. Ct. App. 2018); *Curtis v. Mo. Democratic Party*, 548 S.W.3d 909, 911–12 (Mo. 2018); *State ex rel. Emhoff v. Medina Cnty. Bd. of Elections*, 106 N.E.3d 21, 25 (Ohio 2018); *State ex rel. Guest v. Husted*, 109 N.E.3d 1229, 1232 (Ohio 2018); *State ex rel. Heavey v. Husted*, 99 N.E.3d 372, 374 (Ohio 2018); *State ex rel. Leneghan v. Husted*, 110 N.E.3d 1275, 1278 (Ohio 2018); *Ball v. Wyman*, 435 P.3d 842, 843–44 (Wash. 2018); *Martin v. Humphrey*, 558 S.W.3d 370, 372 (Ark. 2018); *Riemers v. Jaeger*, 916 N.W.2d 113, 115 (N.D. 2018).

101. 922 N.W.2d 404 (Mich. Ct. App. 2018).

102. *Id.* at 408.

103. *Id.* at 410.

104. *Id.* at 408, 410–11, 434.

105. *Senior & Disability Action v. Weber*, 276 Cal. Rptr. 3d 587, 589 (Cal. Ct. App. 2021); *State ex rel. Cincinnati Action for Hous. Now v. Hamilton Cnty. Bd. of Elections*, 173 N.E.3d 1181, 1185 (Ohio 2021); *State ex rel. Walker v. LaRose*, 174 N.E.3d 735, 736–37 (Ohio 2021); *In re Turner*, 627 S.W.3d 654, 657–58 (Tex. 2021); *Larson v. Snohomish Cnty.*, 499 P.3d 957, 973 (Wash. Ct. App. 2021); *State ex rel. Maynard v. Justice*, 858 S.E.2d 229, 231 (W. Va. 2021); *Christenson v. Sec'y of State*, 970 N.W.2d 417, 419 (Mich. Ct. App. 2021); *State ex rel. Summit Cnty. Republican Party Exec. Comm. v. LaRose*, 177 N.E.3d 218, 220–21 (Ohio 2021); *State ex rel. Koteck v. Fagan*, 484 P.3d 1058, 1059 (Or. 2021).

106. 484 P.3d 1058 (Or. 2021).

pandemic caused the federal government to delay releasing census data.¹⁰⁷

In 2022, again, election issues—either concerning processes of elections or candidates—dominated. Eleven of the twelve mandamus petitions against governors or secretaries of state concerned election issues, either processes of elections or concerning election candidates.¹⁰⁸ And the filings were geographically diverse, with filings from seven states.¹⁰⁹ Yet the 2022 mandamus filings included a larger number of politically charged issues: (1) mandamus issued for the North Dakota secretary of state to place an initiative for term limits on the ballot;¹¹⁰ (2) mandamus did not issue to compel the governor of Oklahoma as member of the state election board to place an initiative to legalize and tax marijuana on the ballot because of signature and ballot title contests;¹¹¹ and (3) mandamus did not issue to compel the Oregon secretary of state to withdraw orders disqualifying an initiative for campaign finance reforms because of the availability of another legal remedy and petitioners' delay in starting the initiative process.¹¹² Of note is the centrality of petitioners asserting direct-democracy rights concerning initiatives—supporting the central conclusion explored more fully in Part III below: how petitioners often employ mandamus as a tool to exercise and buttress their democratic rights.¹¹³

In 2024, petitioners from nine states filed ten mandamus cases against governors and secretaries of state, with half concerning election-related issues.¹¹⁴ Like 2022, mandamus filings in 2024 included some

107. *Id.* at 1059–60, 1065.

108. *Hill v. Kemp*, 880 S.E.2d 590, 591 (Ga. Ct. App. 2022) (concerning public officer reinstatement); *State ex rel. Franchini v. Oliver*, 516 P.3d 156, 157–58 (N.M. 2022) (concerning election process); *State ex rel. Ames v. LaRose*, 200 N.E.3d 1128, 1129 (Ohio 2022) (per curiam) (concerning election process); *State ex rel. Cunnane v. LaRose*, 202 N.E.3d 679, 680 (Ohio 2022) (per curiam) (concerning election candidates); *Nichols v. Ziriaux*, 518 P.3d 883, 886 (Okla. 2022) (concerning election process); *Marteeny v. Brown*, 517 P.3d 343, 347 (Or. Ct. App. 2022) (concerning commutations); *State ex rel. Ofsink v. Fagan*, 505 P.3d 973, 974 (Or. 2022) (per curiam) (concerning election process); *State ex rel. Kristof v. Fagan*, 504 P.3d 1163, 1165 (Or. 2022) (per curiam) (concerning election candidate); *Hendrix v. Jaeger*, 979 N.W.2d 918, 919 (N.D. 2022) (concerning election process); *Cegavske v. Hollowood*, 512 P.3d 284, 286 (Nev. 2022) (en banc) (concerning election process); *State ex rel. DeMora v. LaRose*, 217 N.E.3d 715, 717 (Ohio 2022) (per curiam) (concerning election candidates); *State ex rel. Maras v. LaRose*, 199 N.E.3d 532, 533 (Ohio 2022) (per curiam) (concerning election candidate).

109. Each of the following states had one filing: Georgia, New Mexico, Oklahoma, North Dakota, and Nevada; Oregon had three filings, and Ohio had four filings. *See* cases cited *supra* note 108.

110. *Hendrix*, 979 N.W.2d at 919.

111. *Nichols*, 518 P.3d at 884, 886–87.

112. *Ofsink*, 505 P.3d at 974–75.

113. *See infra* Part III.

114. *Dilbert v. Newsom*, 319 Cal. Rptr. 3d 907, 910 (Cal. Ct. App. 2024) (concerning clemency); *Doe v. DeSantis*, 390 So. 3d 1245, 1247 (Fla. Dist. Ct. App. 2024) (concerning public records request); *Richardson v. Sec'y, Fla. Agency for Health Care Admin.*, 395 So. 3d 500, 502, 505 (Fla. 2024) (concerning proposed constitutional amendment); *Labrador v. Idahoans for Open Primaries*, 554 P.3d 85, 87 (Idaho 2024) (concerning open primaries initiative); *Matter of Council on Affordable Hous. by Murphy*, 309 A.3d 128, 130 (N.J. Super. Ct. App. Div. 2024) (concerning gubernatorial

socially or politically consequential filings. These included the denial of two Florida mandamus petitions discussed in more detail in Part IV below: one to compel Florida Governor Ron DeSantis to produce records related to DeSantis's reference to "big legal conservative heavyweights" who advised him on judicial appointments and a second concerning his involvement in a "Leader Call" with religious conservatives concerning abortion rights issues.¹¹⁵ Mandamus filings in 2024 also included denial of a petition against the Idaho secretary of state regarding an open primaries initiative and denial of mandamus to compel the Ohio secretary of state to reconvene the ballot board concerning a measure to change the method of drawing electoral districts.¹¹⁶ Yet notwithstanding the presence of politically charged mandamus cases during recent years that featured higher numbers of mandamus decisions, the data from the cases as a whole does not indicate a notable growing influx of these hot-button cases, but does indicate that topics like election processes and candidates, and citizens employing mandamus to enforce rights concerning elections, arise with some consistency.

Third, across the board since the first filing considered here in 1839—including in the five sporadic recent years with relatively increased filings—denials of writs of mandamus against these public officers have substantially outnumbered grants. Grants occurred in only 191 of the 497 mandamus cases, for a 38% grant rate.

appointments); *Clements v. N.Y. Sec'y of State*, 208 N.Y.S.3d 337, 339 (N.Y. App. Div. 2024) (concerning regulation promulgation); *State ex rel. Citizens Not Politicians v. Ohio Ballot Bd.*, 253 N.E.3d 12, 20 (Ohio 2024) (per curiam) (concerning election ballot contents); *Clymer v. Schmidt*, 324 A.3d 640, 642 (Pa. Commw. Ct. 2024) (concerning election candidate requirements); *Walsh v. Hobbs*, 557 P.3d 701, 703 (Wash. 2024) (en banc) (concerning election ballot contents); *State ex rel. Spung v. Evnen*, 12 N.W.3d 229, 232 (Neb. 2024) (per curiam) (concerning convicted felon voter registration).

115. *DeSantis*, 390 So. 3d at 1247; *Richardson*, 395 So. 3d at 502–03.

116. *Labrador*, 554 P.3d at 87 (regarding certification of open primary initiative by Idaho secretary of state); *Citizens Not Politicians*, 253 N.E.3d at 20 (involving efforts to compel secretary of state to convene ballot board to revise ballot language regarding proposed constitutional amendment).

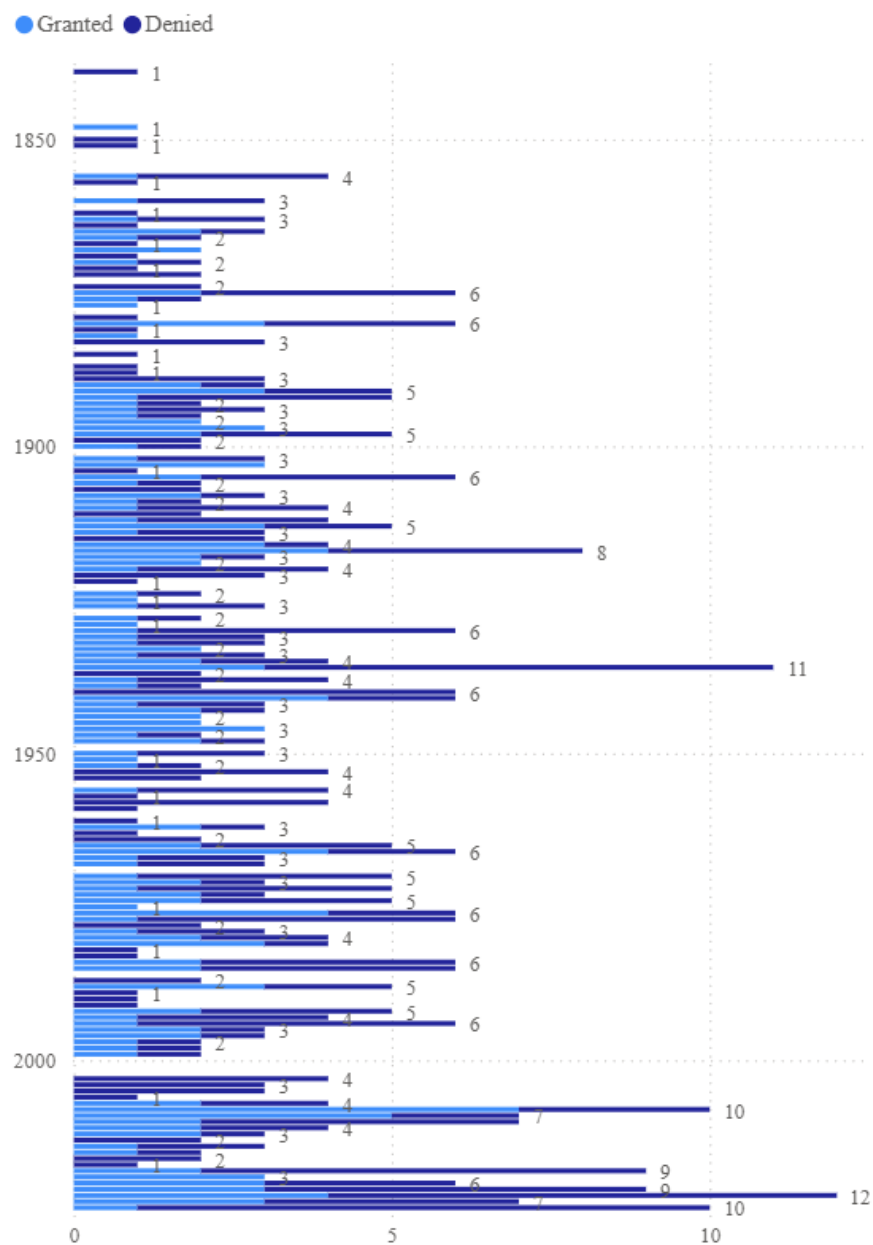


Figure 2: Mandamus Cases by Year Involving Governors and Secretaries of State (Total Granted/Denied)

As Figure 2 reflects, courts consistently rejected petitioners' mandamus petitions against these officers. The discussion below of mandamus petitions directed at governors versus those directed at secretaries of state grants insight into the reasons for this approximately one-third grant

rate.¹¹⁷ But more broadly, the 38% grant rate reflects the limited instances when mandamus can issue—including that the sought official action constitutes a ministerial duty for which the petitioner has a clear legal right, that the grant or denial is up to the court’s discretion, and that mandamus is an “extraordinary remedy.”¹¹⁸

In summation, insights regarding the trends and content of mandamus filings concerning governors and secretaries of state and their grant rate reveal that, to a large degree, the mandamus filings over almost two centuries concern recurrent and common issues that flow from duties of the governor and secretary of state—such as concerning election processes and candidates, appointments, and clemency. Although recent years have sporadically involved somewhat higher numbers of filings and some have involved politically charged issues, there has not been a large and consistent increase in recent filings nor a large number concerning political and social battles. Instead, mandamus filings involving governors and secretaries of state have served other purposes—specific to governors, secretaries of state, and elections.

C. Mandamus Petitions Against Governors

From 1839 to 2024, petitioners throughout the United States filed fewer mandamus petitions against governors than against secretaries of state—and more markedly, the success rate of mandamus petitions against governors was much lower than mandamus filings against secretaries of state. Two hundred nine of the 497 analyzed mandamus cases involved petitions concerning governors—or 42% of the total (including 2% of petitions involving both the governor and secretary of state). And of that lower number of 209 governor mandamus cases, courts granted mandamus in only 63, only 30%.

117. See *infra* Sections III.B and C.

118. See *Carter v. Ann Arbor City Att’y*, 722 N.W.2d 243, 252 (Mich. Ct. App. 2006) (quoting *Citizens for Prot. of Marriage v. Bd. of State Canvassers*, 688 N.W.2d 538, 541 (Mich. Ct. App. 2004)) (stating plaintiff “bears ‘the burden of demonstrating entitlement to the extraordinary remedy of a writ of mandamus’”); *Muller*, *supra* note 17, at 340–42 (stating numerous of these central requirements).

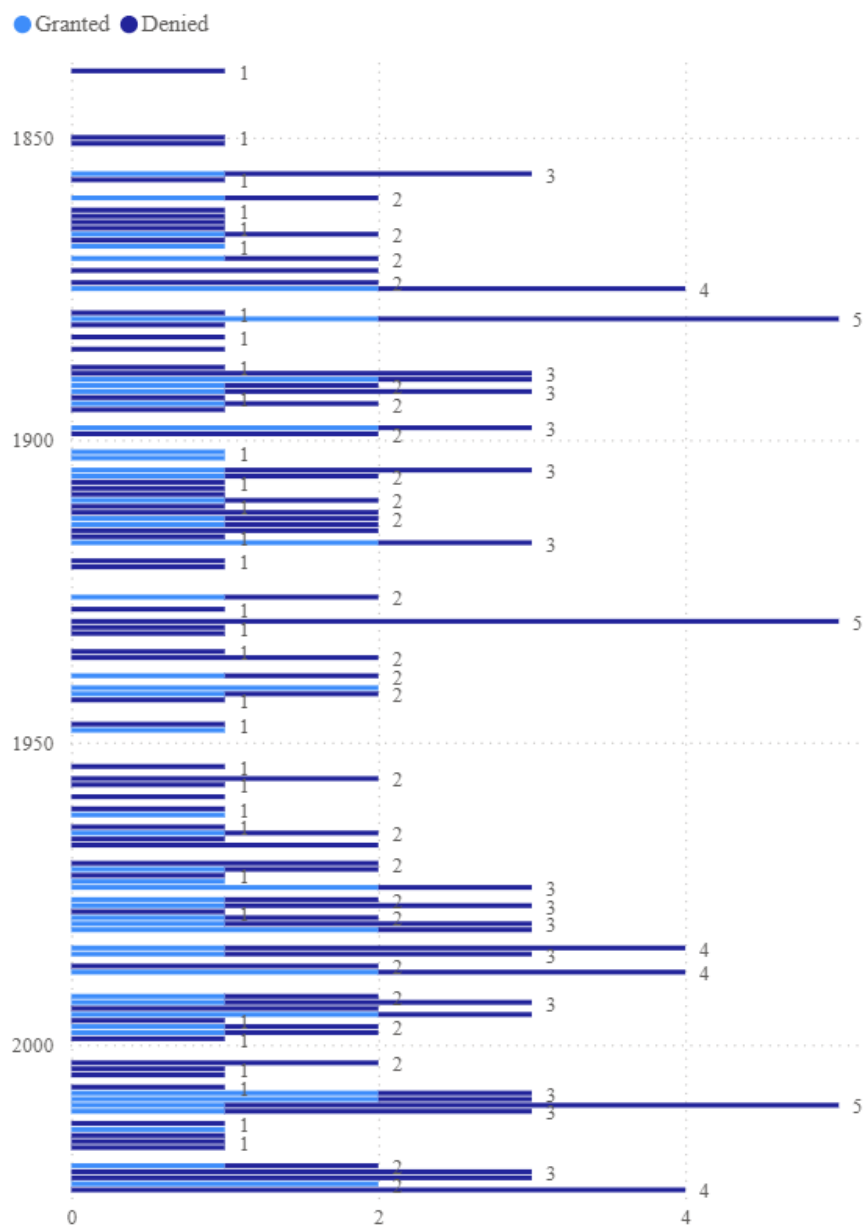


Figure 3: Governor Mandamus Cases by Year (Total Granted/Denied)

The cases reveal one frequent reason for this lower number both of mandamus filings and petition grants: the concern regarding the degree that the judiciary can control and dictate the actions of the state executive. A 1913 case from the Supreme Court of Illinois, *People ex rel. Bruce v. Dunne*,¹¹⁹ spelled out the governance concerns expressed in

119. 101 N.E. 560 (Ill. 1913).

numerous other cases, including the cases cited below.¹²⁰ The court examined whether, under the Illinois Constitution, it had “jurisdiction to compel the chief executive of the State to perform a duty imposed upon him by his office.”¹²¹ The court noted that the constitution divided government “into three distinct departments,—the legislative, executive and judicial,” that no one branch can exercise power invested in the other departments, and that “the supreme executive power of the government is vested in the Governor.”¹²² As a result, “[i]n the great majority of jurisdictions it is held that in view of the division of the powers of government there is no power on the part of courts to enforce by *mandamus* the performance of any duty, whether discretionary or ministerial, imposed upon the chief executive by virtue of his office.”¹²³

Yet juxtaposed to this blanket proposition that the governor was not subject to mandamus, which the Illinois Supreme Court followed in *Bruce*, there was a caveat rule followed by numerous courts and reflected in the dissent in *Bruce*: When the governor’s duty at issue is ministerial—as opposed to a political or discretionary duty—mandamus can issue against the governor to compel performance of the ministerial duty.¹²⁴ The Supreme Court of Indiana, in 1861, defined ministerial act as “one which a person performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to, or the exercise of, his own judgment upon the propriety of the act being done.”¹²⁵

Since the height of the debate regarding whether a court may issue mandamus against the governor, numerous jurisdictions have recognized that a governor may be compelled by mandamus to perform ministerial,

120. *Id.* at 562; see *Martin v. Ingham*, 17 P. 162, 173 (Kan. 1888) (extending discussion of whether governor was subject to mandamus and concluding governor was subject to mandamus for ministerial acts); *State ex rel. Miss. Valley Navigation Co. v. Warmoth*, 24 La. Ann. 351, 351–52 (La. 1872) (finding governor not compelled to act by mandamus if executive duty); Edward J. Myers, *Mandamus Against a Governor*, 3 MICH. L. REV. 634, 635 (1905) (stating the “jurisdiction of courts by mandamus over executive officers, including Governors of states” had “given rise to questions of much difficulty” (quoting JAMES L. HIGH, *supra* note 18, at A TREATISE ON EXTRAORDINARY LEGAL REMEDIES, EMBRACING MANDAMUS, QUO WARRANTO AND PROHIBITION. 122–23)).

121. *Bruce*, 101 N.E. at 562.

122. *Id.*

123. *Id.* at 562–63; see Myers, *supra* note 120, at 634–35 (describing states that hold that governors are not subject to mandamus) (quoting HIGH, *supra* note 120, at 122–23).

124. *Bruce*, 101 N.E. at 566–67 (Farmer, J., dissenting); see, e.g., Myers, *supra* note 120, at 634–35 (recognizing split in authority and recognition by some states that mandamus may lie against governors for discretionary acts).

125. *Flournoy v. City of Jeffersonville*, 17 Ind. 169, 174 (Ind. 1861); see *Bruce*, 101 N.E. at 566 (Farmer, J., dissenting) (quoting the definition of ministerial act from *Flournoy*); see also *Gray v. State ex rel. Coghlen*, 72 Ind. 567, 578 (Ind. 1880) (recognizing governor being subject to mandamus to enforce performance of ministerial duties); *Householder v. Morrill*, 40 P. 664, 664 (Kan. 1895) (recognizing governor subject to mandamus if duty is ministerial); *Magruder v. Swann*, 25 Md. 173, 176–77 (Md. App. Ct. 1866) (considering whether governor can be compelled to perform ministerial acts).

non-discretionary duties¹²⁶—and hence the numerous filings and grants of mandamus against governors in this study. As reflected in Figure 3, the number of mandamus petitions involving governors has been somewhat consistent over time, and the grants of mandamus against governors continually existent but at a low number.

Yet there remain jurisdictions that prohibit granting a writ of mandamus against the governor. In 1891, Texas amended its constitution to provide that the legislature may confer original jurisdiction on the Texas Supreme Court to issue a writ of mandamus “except as against the Governor of the State”—a restriction that remains in place today.¹²⁷ Similarly, Massachusetts continues to recognize that mandamus “is available neither against the Governor, nor against the Legislature.”¹²⁸ The Supreme Judicial Court of Massachusetts acknowledges that “[j]udicial unwillingness to order the Governor or the Legislature to act is founded on separation of powers principles expressed in art. 30 of the Massachusetts Declaration of Rights.”¹²⁹

Despite the widespread early debate regarding whether courts could issue a writ of mandamus against a governor in any circumstance and the jurisdictions—such as Texas and Massachusetts—that continue to prohibit mandamus against a governor, numerous states recognize that mandamus may properly issue against the governor to compel performance of ministerial duties.¹³⁰ Twenty-six states have granted mandamus petitions against governors, ranging from seven in New Mexico to one each in ten states.¹³¹ As displayed in Figure 3, the numbers granted in any year were consistent: during those years when any mandamus petitions involved the governor, these governor-mandamus petitions usually numbered no more than one or two petitions for the year.

The most common governor duties that petitioners filed mandamus petitions to enforce concerned the governor’s duties of appointment, commission, and employment (50 mandamus petitions with 15 granted); payment for services rendered to the state (33 mandamus petitions with 11 granted), duties with respect to the approval of bills and governance (25 mandamus petitions with 12 granted); and duties with respect to elec-

126. See *infra* notes 130–31 and accompanying text (discussing numerous states allowing mandamus petitions against governors).

127. TEX. CONST. art. 5, § 3(a); see also *id.* (noting in Westlaw commentary to 2007 Main Volume restrictions on issuing mandamus against the governor added in 1891 amendment).

128. *Town of Milton v. Commonwealth*, 623 N.E.2d 482, 485 (Mass. 1993) (citations omitted).

129. *Id.*

130. See, e.g., *Ala. Dep’t of Transp. v. Harbert Int’l, Inc.*, 990 So. 2d 831, 834, 839, 842, 844 (Ala. 2008); *State ex rel. Norton v. Bd. of Cnty. Comm’rs*, 897 P.2d 788, 788 (Colo. 1995); *Easler v. Maybank*, 5 S.E.2d 288, 288–89, 291 (S.C. 1939).

131. These states include Alabama, Arizona, California, Colorado, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Missouri, Montana, North Carolina, Nebraska, New Hampshire, New Mexico, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Washington, and West Virginia.

tion processes and logistics (32 mandamus petitions with 10 granted). Another category unique to the governor's office were mandamus petitions concerning pardon and clemency requests from inmates in state prisons. Of the eight mandamus petitions filed requesting the governor to grant clemency, only one was granted—but it involved the governor as the petitioner requesting that the secretary of state perform his duty of affixing the state seal and attesting the signature on a pardon made by the governor.¹³²

Petitioners' filings of mandamus petitions against governors reflect the halting (or fully halted) approach in some states towards the judiciary commanding the executive to perform a duty, and more broadly, a consistent—if lower level—of filings and grants of mandamus petitions against the governor across the country. The most common types of filed and granted mandamus petitions related to some of the governor's central duties, including duties with respect to elections, an underlying foundational finding of this Article, and explored in Part III below.

D. Mandamus Petitions Against Secretaries of State

More petitioners sought a writ of mandamus to issue against secretaries of state than against governors, with secretary of state petitions accounting for 60% of the total (including the 2% of petitions involving both the secretary of state and governor). Petitioners were successful in 44% of petitions seeking to compel the secretary of state to act, as opposed to the lower percentage of a 30% success rate for mandamus petitions filed against the governor.

132. State *ex rel.* Rogers v. Jenkins, 54 P. 765, 766 (Wash. 1898).

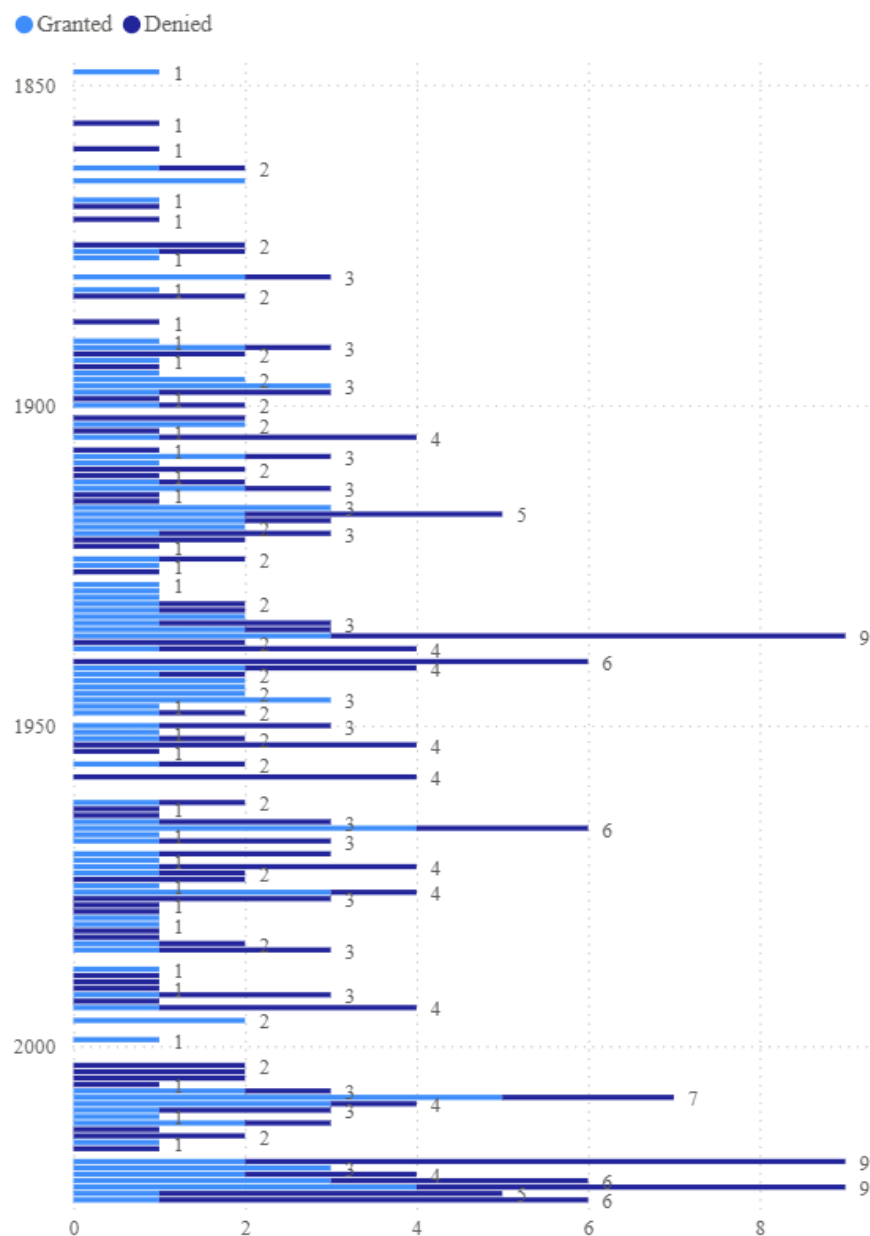


Figure 4: Secretary of State Mandamus Cases by Year (Total Granted/Denied)

Among the factors that contribute to the higher grant rates concerning the secretary of state than the governor are the differences in their position and their duties. Unlike the office of governor where courts have debated whether the state executive is subject to mandamus by the judiciary and at times concluded mandamus cannot issue against the gover-

nor, similar constitutional and governance issues do not apply to the secretary of state.¹³³ States recognize the secretary of state as an officer subject to a court's mandamus power,¹³⁴ meaning that a court may grant mandamus to compel the secretary to perform a ministerial duty.¹³⁵ As a result, the primary limits on courts granting mandamus against the secretary of state reflect the requirements of mandamus generally: whether (1) the action sought in the mandamus petition is a discretionary duty (instead of ministerial),¹³⁶ (2) the petitioner has no clear legal right to the mandamus relief,¹³⁷ and (3) the petitioner has some other legal remedy.¹³⁸

Moreover, the subjects of mandamus petitions filed against secretaries of state reflected various duties of that office that are central and often most contested, including authority over and duties concerning elections, initiatives and referenda, foreign and domestic corporations, and keeping, filing, and printing laws passed by the legislature.¹³⁹ Petitioners most commonly filed mandamus petitions against a secretary of state concerning election processes or logistics: 104 of the 298 petitions—composing 35% of secretary of state mandamus filings—concerned election processes, such as ballot language or the initiative approval process.¹⁴⁰ Courts granted almost half—46%—of these petitions. Issues concerning election candidates composed the next most numerous category: totaling 81 petitions with a 42% grant rate.¹⁴¹ In total, the 185 mandamus petitions concerning elections that involved secretary of state duties rep-

133. See *infra* notes 134–38.

134. See *Citizens Protecting Mich.'s Constitution v. Sec'y of State*, 922 N.W.2d 404, 418 (Mich. Ct. App. 2018) (holding the secretary of state is a “state officer[]” for “mandamus purposes” under Michigan law); see also MICH. COMP. LAWS § 600.4001 (2025).

135. See *Graham v. Moore*, 105 P.2d 962, 964 (Ariz. 1940) (describing, in a proceeding involving secretary of state, that when state officer “is not specifically required to perform the duty or has any discretion as to what shall be done, the writ does not lie”).

136. See *Bibb Cnty. v. Monroe Cnty.*, 755 S.E.2d 760, 763 (Ga. 2014) (noting mandamus did not issue against secretary of state to compel recording of plat and survey to settle boundary dispute as discretionary duty).

137. See *State ex rel. W. Va. Citizen Action Grp. v. Tomblin*, 715 S.E.2d 36, 45–46 (W. Va. 2011) (concluding mandamus issued to compel senate president to issue proclamation to fill vacancy in governor's office within constitutional time requirement because, among other reasons, petitioners citizen action groups and individuals had clear legal right to relief).

138. See *Zellmer v. Smith*, 221 N.W. 220, 223 (Iowa 1928) (holding mandamus issued to compel secretary of state to recognize legality of county convention candidate nomination for state representative as no adequate legal remedy where statutory tribunal with authority over nomination questions no longer existed).

139. See, e.g., 84 OHIO JUR. § 132 (3d ed. 2025) (listing responsibilities and duties of Ohio secretary of state, which included these duties).

140. See, e.g., *Martin v. Humphrey*, 558 S.W.3d 370, 372 (Ark. 2018) (holding mandamus issued to refrain secretary of state from counting, canvassing, or certifying results on constitutional amendment to limit to limit attorney contingency fees to 33.3% because provision violated constitutional provision limiting submission to three constitutional amendments).

141. See, e.g., *State ex rel. Dahlman v. Piper*, 69 N.W. 378, 382 (Neb. 1896) (holding mandamus not issued to compel secretary of state to certify names of Democratic nominees for office because two Democratic conventions claiming in good faith that they represent organization, and it is not secretary's province to determine which was regular convention but rather to certify names of both conventions to county clerks).

resented 62% of all secretary of state filings, reflecting the substantial concentration of election issues in mandamus filings generally, and particularly in those concerning the secretary of state.¹⁴²

In addition, in 37 mandamus cases, petitioners sought to compel secretaries of state to perform a duty concerning corporations—such as filing articles of incorporation or article amendments—with a concentration in these filings between 1887 and 1942. Courts granted 35% of these corporate-focused petitions.¹⁴³ The next most common mandamus subject filed against secretaries of state concerned the printing and compilation of laws, with 24 filings with a 45% grant rate.¹⁴⁴

Certainly, some of these cases against secretaries of state (as with mandamus filings against governors) involved broader national or local political undercurrents. In 2019, the California Republican Party and an individual petitioner requested that mandamus issue to prevent the secretary of state from carrying out the Presidential Tax Transparency and Accountability Act, which prevented printing a candidate for President of the United States on a primary election ballot if the candidate had not filed with the California secretary of state the candidate's federal income tax returns for the five most recent years.¹⁴⁵ The Act was “prompted by” then-candidate and later President Donald Trump’s “break with . . . customary practice” by not releasing his tax returns in 2016.¹⁴⁶ The Supreme Court of California ruled the Act was unconstitutional as it conflicted with the California requirement that a “recognized candidate[] throughout the nation or throughout California for the office of President of the United States” be printed on the ballot of a political party qualified to participate in a primary election.¹⁴⁷ The court directed the secretary of state to refrain from enforcing the Act.¹⁴⁸

Nine years earlier, the California Court of Appeals denied a petition for writ of mandate filed by “those who have come to be known as ‘Birthers’—people who claim[ed] President Barack Obama [wa]s not a natural born citizen of the United States of America and, hence, [wa]s ineligible to be the President.”¹⁴⁹ The court ruled against the petitioners, Alan Keyes and others, concluding that the secretary of state does not

142. See *infra* Part III (discussing the significance and arguably increasing dominance of election-based subjects among mandamus petitions involving governors and secretaries of state).

143. See, e.g., *Rixford v. Jordan*, 6 P.2d 959, 963 (Cal. 1931) (issuing mandamus to compel secretary of state to file articles of incorporation because proposed name “Shredded Foods Company” cannot be denied filing for similarity with “Shredded Wheat Company”).

144. See, e.g., *Coeur D’Alene Tribe v. Denney*, 387 P.3d 761, 764 (Idaho 2015) (issuing mandamus to direct secretary of state to exercise nondiscretionary duty to certify bill repealing law that allowed wagering on “historical” horse racing passed by legislature as law when governor did not return veto within five-day constitutional deadline).

145. *Patterson v. Padilla*, 451 P.3d 1171, 1172–73 (Cal. 2019).

146. *Id.* at 1176.

147. *Id.* at 1173.

148. *Id.*

149. *Keyes v. Bowen*, 189 Cal. App. 4th 647, 651 (Cal. Ct. App. 2010).

have an affirmative duty to verify the eligibility of candidates seeking elective office and ruled that Congress, and not the state court, had jurisdiction to determine the qualifications of candidates for federal office.¹⁵⁰

But most mandamus petitions filed against secretaries of state involved the secretary's everyday duties and whether they were ministerial (and subject to mandamus) or discretionary (and not subject to mandamus). Examples include the Oklahoma Supreme Court's grant of a mandamus petition filed by the Oklahoma Attorney General, requiring the secretary of state to deliver commissions to notaries public appointed by the governor because delivery was a ministerial duty.¹⁵¹ Likewise, *People ex rel. Mosby v. Stevenson*,¹⁵² decided by the Illinois Supreme Court in 1916, reflects the personal impact of mandamus rulings.¹⁵³ The court granted mandamus to Mosby, a janitor in the state capitol men's lavatory, to compel the secretary of state and civil service commission to certify his back salary owed for services rendered before his discharge.¹⁵⁴

Yet the predominance of election process and election candidate mandamus proceedings among petitions against the secretary of state—a natural outgrowth of the secretary of state's election responsibilities and authority—displays the broad and repeated role of mandamus in election processes and of petitioners' using mandamus as a means to enforce rights and performance of public official duties.

III. THE CITIZEN-EMPOWERING ASPECTS OF PUBLIC-OFFICER MANDAMUS

Among the most notable results from this study of mandamus petitions involving governors and secretaries of state are not the sporadic (and arguably somewhat increasing in frequency) high-profile politicized cases but instead the role of public-officer mandamus as an empowering tool for citizens.¹⁵⁵ The mandamus mechanism allows citizens or citizen groups to get their complaints about procedural and logistical issues in the election process decided quickly and with authority, often by the state's highest court.¹⁵⁶ Filings reveal that, particularly over the last twenty-five years, issues concerning the process and results of elections have experienced a notable upsurge both in overall numbers and in the percentage of public-official mandamus cases involving governors and secretaries of state. Recognizing that this does not represent the whole of mandamus filings against public officials, the trend is nevertheless re-

150. *Id.* at 651–52, 661–62.

151. *State v. Lyon*, 165 P. 419, 422 (Okla. 1917).

152. 111 N.E. 595 (Ill. 1916).

153. *Id.* at 596–97.

154. *Id.*

155. *See, e.g., Muller, supra* note 17, at 374 (recognizing mandamus as a uniquely suitable tool to resolve election disputes, including because of its efficiency).

156. *See id.*

vealing regarding the strength and type of intersections between elections and mandamus—particularly with the secretary of state being the top election official in most states.

This study also reveals that, of these cases, a sizable proportion involve citizens or groups of citizens employing mandamus often in the state's highest court to press their support or concern about the direct-democracy processes under their state's initiative and referenda systems.¹⁵⁷ The consequence is that mandamus—particularly involving the secretary of state—increasingly provides a tool that citizens employ to place concerns about the democratic process before the court. But understanding the role of elections—including referenda and initiatives—in public-officer mandamus cases calls for first understanding the scope of the subject of mandamus filings and trends over decades.

A. The Subjects of Mandamus Filings and Shifts Over Time

The subjects of mandamus filings against governors and secretaries of state are broad, reflecting the broad duties of these officers and corresponding complaints about the officers performing or not performing those duties. As Figures 5 and 6 demonstrate, the topics ranged from election-related claims to corporate filings to land patents to labor issues to intellectual property.

Case Type	Type Description	Cases
EP	Election Processes	133
EC	Election Candidate/Parties	94
A	Appointment/Commission/Employment	66
P	Payment for Services/Contracts for Payment	45
C	Corporation/Charter/Stock Subscription	41
G	Bills/Mechanics/Approval/Governing	31
PR	Printing (Laws)/Bills Counted as Law	24
O	Other	23
LP	Land Patent/Purchase/Boundaries	15
AP	Appropriation/Allocation of Funds	12
PC	Pardon/Clemency	9
L	Labor	2
IP	Trademark/Other Intellectual Property	2
Total		497

Figure 5: Mandamus Petitions by Subject

157. See *infra* Section III.C.

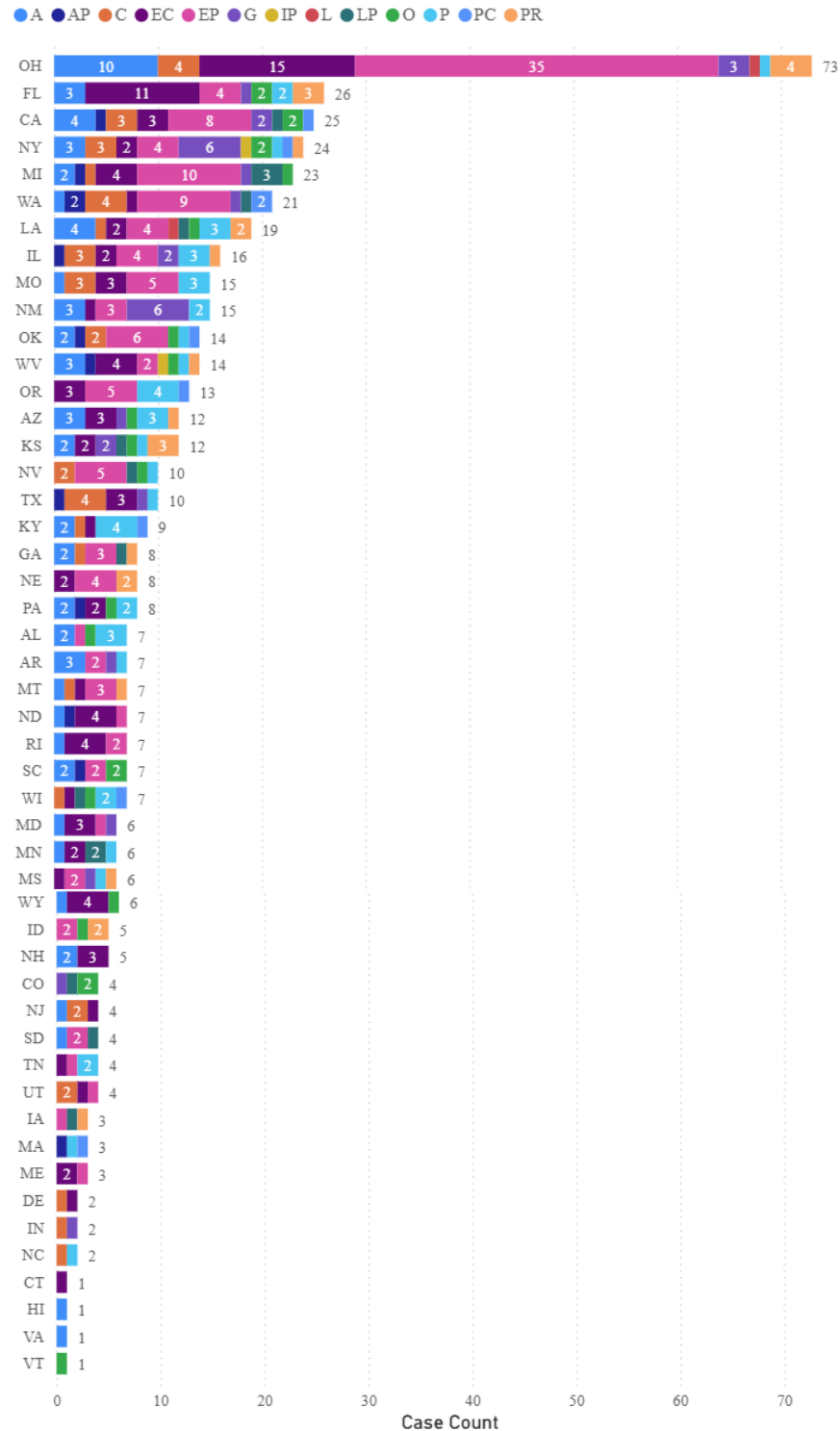


Figure 6: Types of Mandamus Cases by State

It is also clear that several types of cases had relatively similar numbers of filings. As Figure 5 displays, mandamus filings concerning printing and compiling the laws, the approval of bills and governance, issues concerning corporations, and payment of money due were similar in number. As Figure 7 demonstrates, most types of cases stayed relatively stable in number of filings over time, with some scattered years of a slight rise and at times years without any filings.

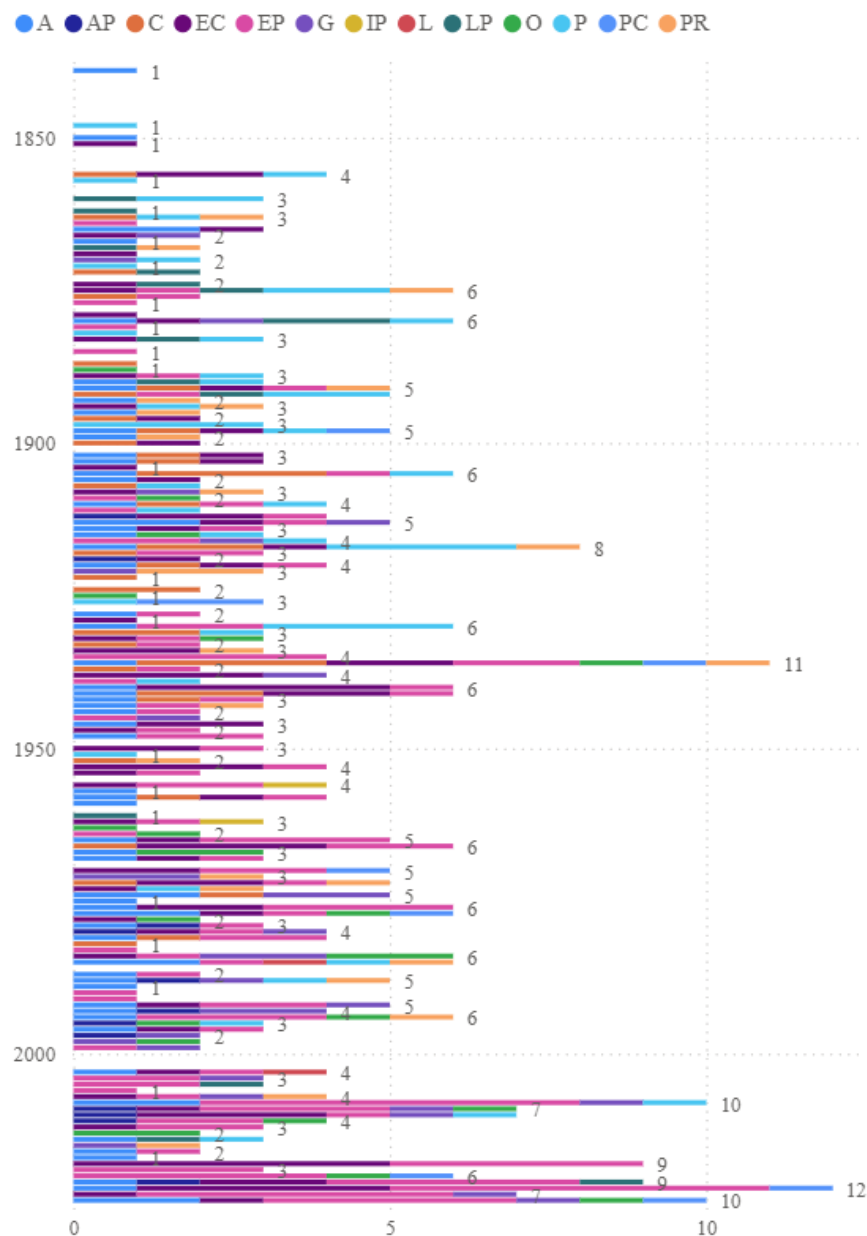


Figure 7: Mandamus Case Types by Year

The unmistakable exception are mandamus cases against governors and secretaries of state concerning election issues. “Election Candidates/Parties” includes issues regarding candidate qualification and victory, as well as ballot and election issues concerning political parties. “Election Processes” comprises petitions concerning the process and legal requirements of elections under each states’ law. As Figure 5 demonstrates, election-related mandamus petitions composed the largest number and percentage of filings: with 227 petitions composing 46% of the total mandamus petitions filed concerning governors and secretaries of state. Moreover, these 227 election cases decided since the 1830s had a 42% grant rate, higher than the overall 38% grant rate for all mandamus cases involving governors and secretaries of state.

B. The Increasing Prevalence and Significance of Election-Focused Mandamus

Scholars recognize the benefits and appropriateness of employing mandamus in connection with political contests as well as the long history of applying mandamus in election disputes. As Derek Muller recognizes, mandamus is an “underexplored” and valuable mechanism to resolve election disputes.¹⁵⁸ As Muller also observes, the procedural benefits of mandamus in an election dispute include efficiency.¹⁵⁹ Mandamus often involves expedited proceedings with original jurisdiction in the state’s highest court, with the result that time-pressed election challenges receive legal resolution relatively quickly.¹⁶⁰ Another advantage is the broad scope of election-related matters to which the writ can apply—but only when ministerial (not discretionary) duties of election officials or public officers are at issue.¹⁶¹

Litigants and courts have long acknowledged the advantages of mandamus’s broad application and benefits in the election context. For centuries, English courts have applied mandamus in election disputes and readily granted mandamus in election contexts.¹⁶² As historian Kevin Costello concluded, from 1600 to 1620, over 60% of mandamus petitions before the King’s Bench were related to elections.¹⁶³ These early election mandamus cases, like mandamus petitions today, covered a broad num-

158. Muller, *supra* note 17, at 332.

159. *Id.* at 374; *see id.* at 344 (characterizing mandamus as “offer[ing] a simple, straightforward, and expeditious remedy for litigants challenging a public official’s refusal to perform a clear legal duty”).

160. *See id.* at 333, 374 (asserting “state court jurisdictional statutes make mandamus a much more powerful tool [than injunctive relief] for speedy relief”).

161. *Id.* at 345; *see* Lambert, *supra* note 65, at 805–06 (noting Michigan’s election law allows citizens the opportunity to petition the Michigan Supreme Court when the state board of canvassers deadlocks on a decision concerning certifying a proposal and mandamus can only succeed if the petitioner has a clear legal right and no other legal remedy and the certification is a ministerial duty).

162. Muller, *supra* note 17, at 344.

163. Kevin Costello, *Mandamus and Borough Political Life, 1615 to 1780*, 42 J. LEGAL HIST. 171, 186 (2021); *see* Muller, *supra* note 17, at 344.

ber of topics—from a candidate meriting office to settling an election challenge.¹⁶⁴

But one development that stands out in election mandamus filings in recent decades is the shift in composition of the subject of election-related mandamus petitions concerning governors and secretaries of state. As reflected in Figure 8, petitions concerning candidates and parties—such as whether a candidate may appear on a ballot or the party nomination processes—have been relatively consistent since 1850 with a few spikes during sporadic years, including more recently in 2010, 2018, and 2022.

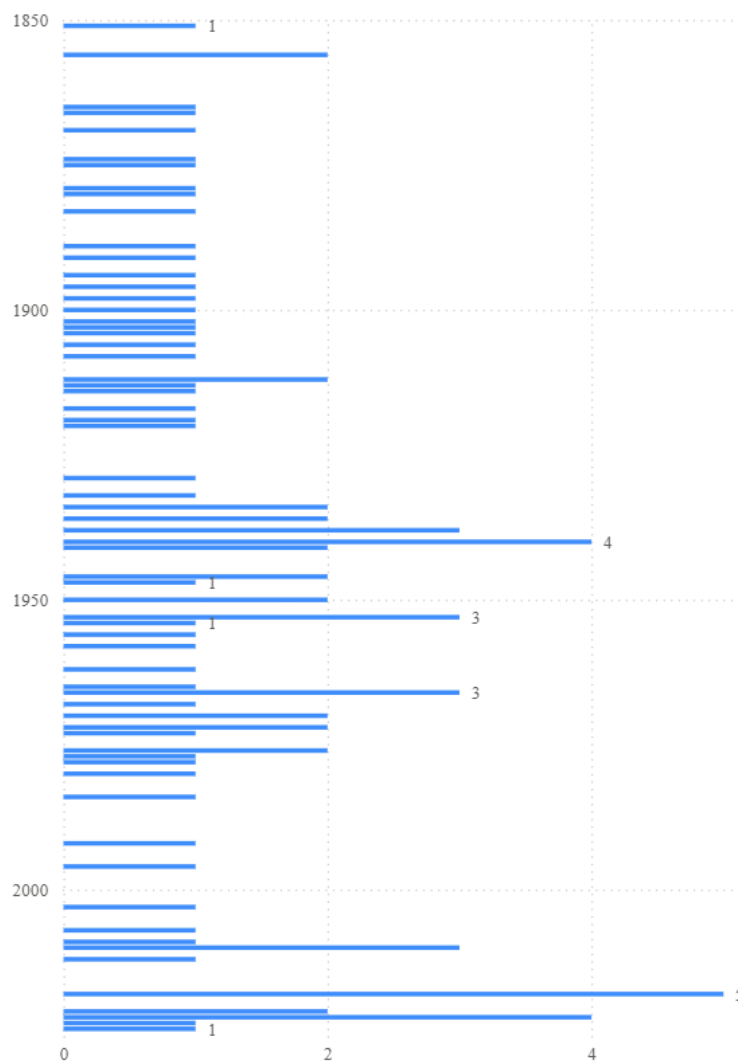


Figure 8: Election Candidate Mandamus Cases by Year

164. Muller, *supra* note 17, at 344.

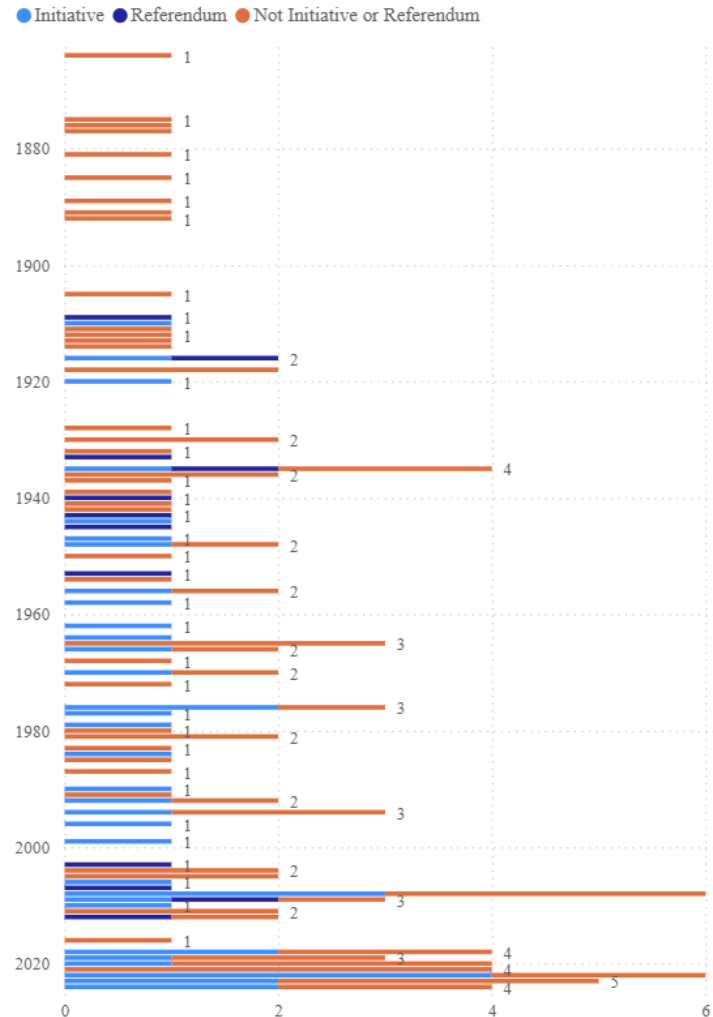


Figure 9: Election Processes Mandamus Cases by Year

In contrast, as demonstrated in Figure 9, mandamus petitions concerning election processes—such as signature requirements, certification of ballot measures, and other logistics—have experienced a notable and concentrated increase since 2000. Of the 133 election processes mandamus filings stretching from 1839 to 2024, 52 filings—representing 39% of the total—were decided in the last twenty-four years. This increased number of election processes mandamus filings also accounts for a large percentage of the overall increase in mandamus filings against secretaries of state and governors over the last quarter century.

A review of the 52 mandamus cases involving election processes decided between 2000 and 2024 listed in Appendix A—46 filed to compel action by the secretary of state and 6 filed against the governor—reveals the repeated use of mandamus by citizens and citizen groups to press forward or oppose constitutional and other ballot measures. These

cases and the parties who initiated them include ballot question committees;¹⁶⁵ voting rights groups;¹⁶⁶ initiative supporters;¹⁶⁷ prospective candidates;¹⁶⁸ coalitions of political parties, voters, and political organizations;¹⁶⁹ challengers of ballot language; and promoters of initiatives.¹⁷⁰

Petitioners were successful in 42% of these recent election processes petitions listed in Appendix A—a percentage higher than the 38% success rate for the 497 mandamus petitions in the study as a whole.

C. Employing Mandamus to Enforce Initiative and Referenda Processes

One segment of petitioners—although not dominant based on numbers—represented a repeat type of litigant: petitioners supporting or contesting initiatives and referenda to their states' laws. Fifty-five cases from sixteen states involved initiative or referenda—from Ohio, Washington, Michigan, Oklahoma, Nevada, California, Missouri, Oregon, Idaho, Montana, Nebraska, South Dakota, Arkansas, Florida, North Dakota, and Utah. Petitioners in 49% of initiative- and referenda-based mandamus petitions were successful, which was 11 percentage points higher than the national average for all public-officer mandamus cases. These mandamus cases against governors and secretaries of state date back to 1909–1910.¹⁷¹ But a substantial group—twenty-two, representing 40% of the initiative and referendum mandamus cases—arose between 2000 and 2024.

The use of mandamus to promote or contest citizen initiatives or popular referenda demonstrates how the availability of mandamus as a remedy supports democratic tendencies. Both initiatives and referenda are modes of “direct democracy” because they are “citizen-initiated ballot measures.”¹⁷² The initiative practice gained popularity in the early 1900s as a progressive reform that was a “method[] of direct govern-

165. See *Citizens Protecting Mich.'s Const. v. Sec'y of State*, 761 N.W.2d 210, 212 (Mich. Ct. App. 2008); *Citizens Protecting Mich.'s Const. v. Sec'y of State*, 922 N.W.2d 404, 408 (Mich. Ct. App. 2018); *Protect MI Const. v. Sec'y of State*, 824 N.W.2d 299, 300 (Mich. Ct. App. 2012), *rev'd*, 819 N.W.2d 428 (Mich. 2012); *Stand Up for Democracy v. Sec'y of State*, 824 N.W. 2d 220, 223 (Mich. Ct. App. 2012), *rev'd*, 822 N.W.2d 159 (Mich. 2012).

166. See *League of Women Voters of Mich. v. Sec'y of State*, 959 N.W.2d 1, 5 (Mich. Ct. App. 2020); *State ex. rel. League of Women Voters v. Herrera*, 203 P.3d 94, 95 (N.M. 2009).

167. See *Safe Surgery Ark. v. Thurston*, 591 S.W.3d 293, 295 (Ark. 2019); *Cegavske v. Hollowood*, 512 P.3d 284, 286 (Nev. 2022).

168. See *State ex rel. Ames v. LaRose*, 200 N.E.3d 1128, 1129 (Ohio 2022).

169. See *Unite N.M. v. Oliver*, 438 P.3d 343, 344 (N.M. 2019).

170. See *infra* app. A (case data).

171. See, e.g., *Norris v. Cross*, 105 P. 1000, 1001 (Okla. 1909) (granting petition to direct secretary of state to hear protests and decide whether referendum petitions sufficient); *State ex rel. Halliburton v. Roach*, 130 S.W. 689, 690 (Mo. 1910) (denying petition to compel secretary of state to file initiative petition).

172. *Initiative and Referendum Processes*, NAT'L CONF. OF STATE LEGISLATURES (Nov. 24, 2025), <https://www.ncsl.org/elections-and-campaigns/initiative-and-referendum-processes>; *Initiative and Referendum*, BALLOTPEdia, https://ballotpedia.org/Initiative_and_referendum (last visited Jan. 18, 2026).

ment.”¹⁷³ The Michigan Supreme Court expounded on the impetus behind this mode of direct democracy in 1924:

The initiative found its birth in the fact that political parties repeatedly made promises to the electorate both in and out of their platforms to favor and pass certain legislation for which there was a popular demand. As soon as election was over, their promises were forgotten, and no effort was made to redeem them. These promises were made so often and then forgotten that the electorate at last through sheer desperation took matters into its own hands and constructed a constitutional procedure by which it could effect changes in the Constitution and bring about desired legislation without the aid of the Legislature.¹⁷⁴

Initiatives enable citizens to collect a required number of signatures to place a new constitutional amendment or statute on the ballot for voters to approve or not.¹⁷⁵ Referenda allow citizens to collect a required number of signatures in order to ask voters whether to repeal or uphold a previously enacted law.¹⁷⁶ Twenty-six states allow for the initiative or referendum process—including the sixteen where mandamus petitions concerning initiatives or referenda involved governors and secretaries of state in this study.¹⁷⁷

The intersection of the citizen-led democratic processes in referenda and initiatives and mandamus arises from the state laws in each jurisdiction. These laws directly provide that mandamus may issue to compel performance of specific ministerial duties—including submission of an initiative or referendum to voters where all required preliminary requirements are met and associated duties to ensure proper submission and processes.¹⁷⁸ Also centrally, a person or organization may bring a mandamus action to oppose the submission of an initiative and its placement on the ballot.¹⁷⁹ The common law of each of the sixteen states where petitioners filed mandamus petitions involving initiative and referenda in this study confirm the common application of mandamus as a remedy to correct alleged faults by these officials in performing their duties in the initiative or referendum process.¹⁸⁰

173. *Wolverine Gold Club v. Hare*, 180 N.W.2d 820, 823 (Mich. Ct. App. 1970).

174. *Hamilton v. Deland*, 198 N.W. 843, 849 (Mich. 1924).

175. *Initiative and Referendum*, *supra* note 172.

176. *Id.*

177. *Id.*

178. 42 AM. JUR. 2D *Initiative and Referendum* § 47 (2025); 55 C.J.S. *Mandamus* § 252 (2025).

179. 55 C.J.S. *Mandamus* § 252.

180. *See, e.g., State ex rel. Ohio Liberty Council v. Brunner*, 928 N.E.2d 410, 414 (Ohio 2010) (noting mandamus was appropriate remedy to challenge a public board’s decision that was not appealable); *State ex rel. Kennedy v. Reeves*, 157 P.2d 721, 722, 724 (Wash. 1945) (granting mandamus petition to compel secretary of state to accept filing papers to initiate referendum); *Wolverine Golf Club v. Sec’y of State*, 180 N.W.2d 820, 821, 833 (Mich. Ct. App. 1970) (issuing mandamus to compel secretary of state to accept initiative petition and submit to legislature); *Nichols v. Ziriaux*,

Three case examples reflect how the writ of mandamus supports the citizen-initiated and direct-democracy nature of the initiative and referendum process. *Hendrix v. Jaeger*,¹⁸¹ a 2022 decision by the North Dakota Supreme Court, displays both the empowering role of the initiative process to citizens (including citizens organized to promote an initiative) and how citizens can employ mandamus to hold public officers, such as the secretary of state, responsible for performing initiative-process duties correctly. The North Dakota for Term Limits Sponsoring Committee and its chairman sought a writ of mandamus to require the secretary of state to include an initiative on the ballot concerning a new constitutional amendment imposing term limits on state legislators and the governor.¹⁸² The secretary had determined the initiative did not qualify for placement on the ballot after he disqualified numerous signatures on the basis of alleged fraud by a notary.¹⁸³ Underscoring the citizen-government nature of the initiative process, the court noted that “[t]he people of North Dakota reserved to themselves the power to propose and adopt constitutional amendments by the initiative.”¹⁸⁴ The court concluded that the secretary of state “misapplied the law by imputing fraud” from several unreliable signatures by circulators on affidavits sworn before a certain notary and, consequently, disqualifying over 15,000 signatures.¹⁸⁵ This whole-

518 P.3d 883, 886 (Okla. 2022) (assuming original jurisdiction to consider mandamus petition and denying mandamus to place initiative on ballot); *Cegavske v. Hollowood*, 512 P.3d 284, 286 (Nev. 2022) (granting mandamus relief to compel secretary of state to recognize withdrawal of initiatives and not include initiatives on ballot); *McFadden v. Jordan*, 196 P.2d 787, 788 (Cal. 1948) (issuing mandamus to prohibit secretary of state from submitting initiative for state constitutional amendment); *State ex rel. Stokes v. Roach*, 190 S.W. 277, 277, 280 (Mo. 1916) (granting mandamus to compel secretary of state to certify copies of proposed initiative for constitutional amendment); *State ex rel. Sajo v. Paulus*, 688 P.2d 367, 369 (Or. 1984) (issuing mandamus to compel secretary of state to place initiative on ballot); *Girard v. Miller*, 43 P.2d 510, 510 (Idaho 1935) (granting mandamus petition by secretary of state to compel attorney general to provide referendum ballot title); *Jordan v. Murray*, 554 P.2d 749, 749 (Mont. 1976) (concluding mandamus is proper remedy to determine which of two explanatory statements concerning amendment the secretary of state should put on ballot); *State ex rel. Wagner v. Evnen*, 948 N.W.2d 244, 250 (Neb. 2020) (issuing mandamus to compel secretary of state to withhold voter initiative from ballot); *Larson v. Hazeltine*, 552 N.W.2d 830, 832, 837 (S.D. 1996) (granting mandamus directing secretary of state to conduct signature validation process for initiative petition); *Safe Surgery Ark. v. Thurston*, 591 S.W.3d 293, 295, 297–98 (Ark. 2019) (issuing mandamus to compel secretary of state to count signatures to support ballot initiative); *Hendrix v. Jaeger*, 979 N.W.2d 918, 919 (N.D. 2022) (issuing mandamus to direct secretary of state to place initiative regarding term limits on ballot); *Advisory Op. to the Att’y Gen. re: Tax Limitation*, 644 So.2d 486, 497 (Fla. 1994) (considering petition of writ of mandamus to command secretary of state to take action to remove initiative petition from ballots and concluding mandamus would not issue because requested duty was not one held by secretary of state); *Cope v. Toronto*, 332 P.2d 977, 979 (1958) (declining to issue mandamus to compel secretary of state to take action to remove initiative petition from ballot because court will not interfere with secretary of state’s performance of duties absent fraud, bad faith, or clear abuse); *see also* *League of Women Voters v. Smith*, 644 So. 2d 486, 489, 496 (Fla. 1994) (concluding mandamus not appropriate remedy to compel secretary of state to disapprove signatures on initiative petitions). *But see* *Fine v. Firestone*, 448 So. 2d 984, 985–96 (Fla. 1984) (holding mandamus was proper means to determine if proposed constitutional amendment met single subject requirement).

181. 979 N.W.2d 918 (N.D. 2022).

182. *Id.* at 919–20.

183. *Id.*

184. *Id.* at 921.

185. *Id.* at 927.

sale invalidation was a misapplication of law.¹⁸⁶ Then the court granted mandamus, compelling the secretary of state to place the Term Limits Initiative on the general election ballot.¹⁸⁷

Likewise, the Michigan Court of Appeals, in the 1970 case *Wolverine Golf Club v. Secretary of State*,¹⁸⁸ granted the mandamus petition submitted by an individual and a golf club to order the secretary of state to receive and submit an initiative petition for the State of Michigan to comply with—instead of be exempt from—the federally mandated daylight savings time.¹⁸⁹ The secretary had denied petitioners the right to submit their petition to initiate legislation because the statutory deadline to submit petitions, which was ten days before the legislative session commenced, had already passed.¹⁹⁰ The court of appeals concluded that the ten-day requirement impermissibly limited access to the initiative process and conflicted with a constitutional provision limiting the submission period for an initiative to the legislature.¹⁹¹ Striking down the ten-day limit as an “unnecessary and, therefore, unreasonable restraint on the constitutional right of the people to initiative,” the court granted mandamus, ordering the secretary of state to accept the petition and submit it to the legislature.¹⁹²

Yet petitioners have also employed mandamus to enforce the limits of the initiative and referendum process. In 2020, the Supreme Court of Nebraska considered a challenge by a state resident to a voter ballot initiative for persons with acute medical conditions to grow and medicinally employ cannabis.¹⁹³ The challenger asserted that the initiative proposal violated the single-subject rule, a requirement added in 1998 to limit initiative measures to only address one subject.¹⁹⁴ The intent of the requirement was to avoid logrolling, which occurs when a proponent “combin[es] dissimilar propositions into one voter initiative” forcing a voter who may support some of the initiative propositions to vote for the whole package to attain the sought-for initiatives.¹⁹⁵ The supreme court concluded that the proposed initiative “contain[ed] at least eight subjects.”¹⁹⁶ Consequently, the court granted the writ of mandamus, directing the secretary of state to withhold the initiative from the general election ballot.¹⁹⁷

186. *Id.*

187. *Hendrix v. Jaeger*, 979 N.W.2d 918, 927 (N.D. 2022).

188. 180 N.W.2d 820 (Mich. Ct. App. 1970).

189. *Id.* at 821, 833.

190. *Id.* at 821.

191. *Id.* at 828.

192. *Id.* at 821, 832–33.

193. *State ex rel. Wagner v. Evnen*, 948 N.W.2d 244, 250 (Neb. 2020).

194. *Id.*

195. *Id.* at 253.

196. *Id.* at 260.

197. *Id.* at 260–61.

As these three illustrations and the overarching incidence of mandamus petitions involving initiatives and referenda demonstrate, mandamus repeatedly serves as a useful tool to enable citizens to exercise their rights to engage in direct democracy—or to challenge initiative and referendum efforts when they do not comply with legal requirements. This aspect of mandamus goes beyond the usual focus on mandamus's historical origins, legal requirements, and politically hot-issue mandamus cases. Instead, these cases demonstrate how the remedy of mandamus helps enable citizen-initiated democracy and law. More broadly, the large growth in mandamus cases concerning the secretaries of state's and governors' duties in election processes exhibit the increasing role of such public-officer mandamus proceedings in enforcing and furthering election law requirements and the smooth running of electoral procedures. As discussed in Part V below, potential downsides to this use of mandamus exist, including the limitations on its use to ministerial duties, the necessity to convince a court to grant the discretionary writ, and the dangers of overwhelming dockets with mandamus filings or politicizing the courts. But the repeated use of mandamus in election processes—including in promoting or resisting proposed initiatives and referenda—displays how numerous parties have employed mandamus in an effort to enforce democratic rights.

IV. TWO VIEWS OF THE ROLE OF PUBLIC-OFFICER MANDAMUS: OHIO AND FLORIDA

The two states with the highest number of mandamus filings involving governors and secretaries of state also provide insight into the past and present role and development of public-officer mandamus. Ohio far exceeded all other states in the number of mandamus cases involving the governor or secretary of state with seventy-four mandamus cases. Florida fell into a distant second with twenty-six filings.

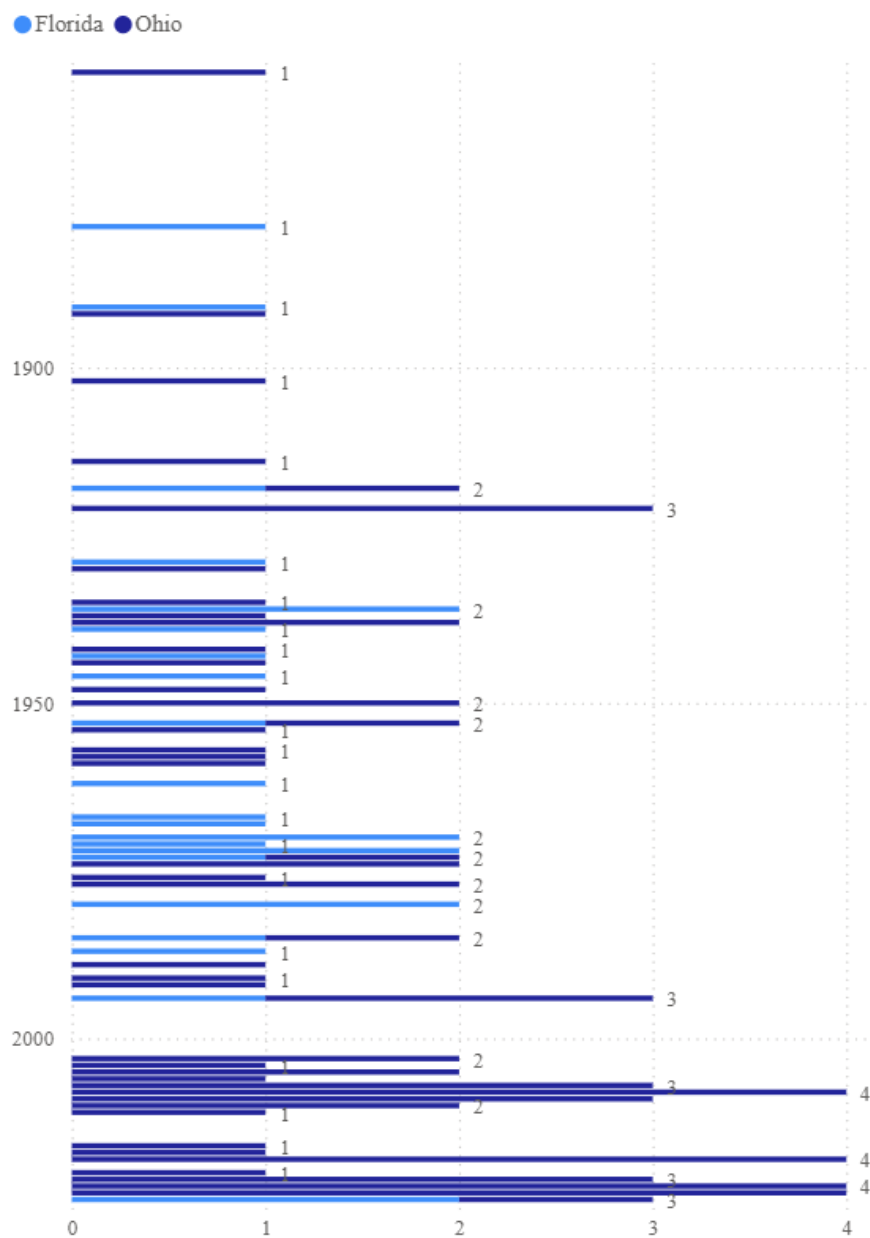


Figure 10: Ohio and Florida Mandamus Cases by Year

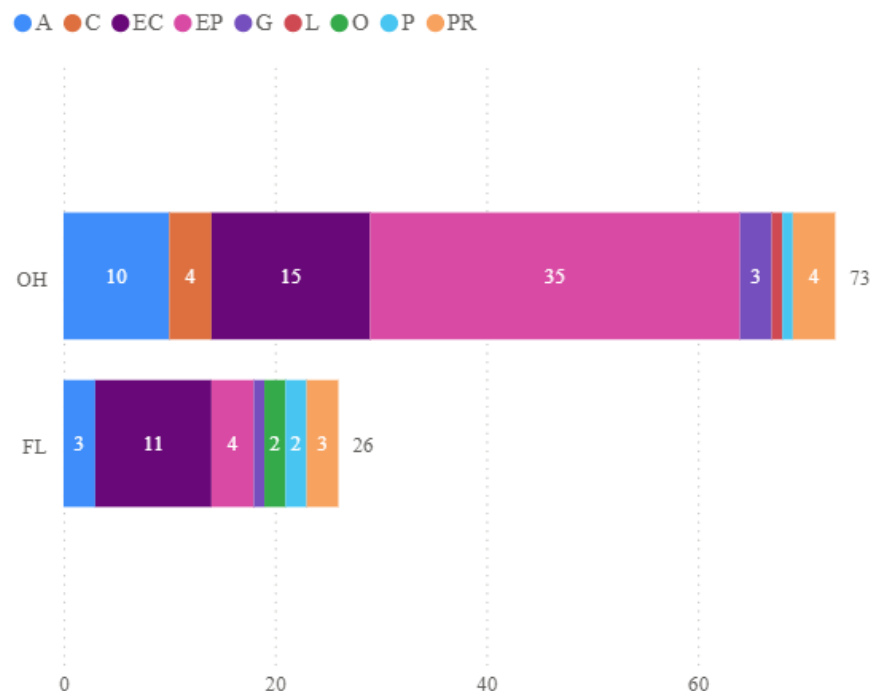


Figure 11: Ohio and Florida Mandamus Cases by Type

As Figure 10 demonstrates, both Ohio and Florida had a similar pattern of mandamus cases from the nineteenth century through around 2000. After 2000, the number of mandamus filings involving governors and secretaries of state in Ohio multiplied while those in Florida dwindled. Moreover, the types of mandamus cases filed in the two states reflected in Figure 11 reveal the concentration of election process cases particularly in Ohio, although both states have a similar distribution of types of case among categories.

Two aspects of these patterns in Ohio and Florida provide particular insight into (1) the evolution of the role of public-officer mandamus over time and (2) the instances of both high-profile mandamus cases and routine election-oriented mandamus cases, and how jurisdictions differ as to which has most impact. Ohio provides the most notable example in the study of a jurisdiction with a plethora of mandamus filings involving the governor and secretary of state and the growth of those cases over time. Filings occurred in the 73 Ohio mandamus cases intermittently with one or two cases sporadically in years between 1856 and 2002. Then in the twenty-one years between 2003 and 2024, Ohio courts decided 39 cases, constituting 53% of the state's mandamus cases involving governors or secretaries of state. More broadly, the 39 election processes cases in Ohio far outnumbered the number in all other states—with the next highest number in Michigan with 10 election processes mandamus cases.

In addition, of those 39 mandamus cases in Ohio between 2003 and 2024, 21—54%—were election processes cases. Further, these election process cases were relatively rare in the state before 2000, with only 14 election processes mandamus cases decided in Ohio prior to 2000. One contributing factor to the post-2000 expansion in election-related mandamus filings in Ohio may be the enactment by the Supreme Court of Ohio in June 1994 of Rule of Practice 12.08, which provides for expedited election cases “[b]ecause of the necessity of a prompt disposition of an original action relating to a pending election.”¹⁹⁸

Yet, the grant rate in Ohio for public-official mandamus cases was lower than the national average of 38%, with the Ohio courts granting mandamus in only 32% of all Ohio public-official mandamus petitions. And an even lower grant rate occurred in election process mandamus petitions in Ohio, with a 28% grant rate.

Notwithstanding this relatively low grant rate, a review of Ohio mandamus cases reflects that citizens and those involved in the election process increasingly viewed mandamus as a viable avenue to have their complaints addressed. As reflected in Appendix B, of the 35 mandamus petitions challenging election processes, 28 (80%) involved citizens or citizen groups as the petitioners,¹⁹⁹ while the petitioners in 5 were political candidates,²⁰⁰ and the attorney general petitioned in one case.²⁰¹ Moreover, as also reflected in Appendix B and cited below, the petitioners in 9 out of the 10 successful mandamus cases in Ohio challenging election processes were citizens or citizen groups, and the tenth was the attorney general.²⁰² This data indicates that Ohio citizens increasingly view mandamus challenging election processes as a worthwhile avenue to have their complaints addressed. Although the success rate at 28% for election process mandamus petitions is relatively low compared with the

198. OHIO SUP. CT. R. PRAC. 12.08. My thanks to Derek Clinger, Senior Staff Attorney, State Democracy Research Initiative, for alerting me to this Ohio Supreme Court Rule of Practice.

199. See *infra* app. B.

200. *State ex rel. v. McKinley*, 11 Ohio Dec. Reprint 692, 692, 693 (C.P. Ohio 1892); *State ex rel. McCartney v. Hummel*, 81 N.E.2d 799, 800 (Ohio Ct. App. 1948), *aff'd*, 80 N.E. 2d 436 (Ohio 1948); *State ex rel. Painter v. Brunner*, 941 N.E.2d 782, 786 (Ohio 2011); *State ex rel. Leneghan v. Husted*, 110 N.E.3d 1275, 1278 (Ohio 2018); *State ex rel. Ames v. LaRose*, 200 N.E.3d 1128, 1129 (Ohio 2022).

201. *State ex rel. Herbert v. Bricker*, 41 N.E.2d 377, 378 (Ohio 1942).

202. *Id.* (attorney general); *State ex rel. Melvin v. Sweeney*, 94 N.E.2d 785, 786 (Ohio 1950) (opposed to actions of secretary of state regarding board directive); *State ex rel. Skaggs v. Brunner*, 900 N.E.2d 982, 983–84, 986 (Ohio 2008) (voters); *State ex rel. Stokes v. Brunner*, 898 N.E.2d 23, 24, 26 (Ohio 2008) (registered voter and resident); *State ex rel. LetOhioVote.org v. Brunner*, 916 N.E.2d 462, 466 (Ohio 2009) (ballot-issue committee, committee members, and resident electors); *State ex rel. Painter v. Brunner*, 941 N.E.2d 782, 786, 798 (Ohio 2010) (candidate for judge of court of common pleas); *State ex rel. Ohioans for Secure & Fair Elections v. LaRose*, 152 N.E.3d 267, 268 (Ohio 2020) (election organization); *State ex rel. Ohioans United for Reprod. Rts. v. Ohio Ballot Bd.*, 237 N.E.3d 1, 4–5 (Ohio 2023) (committee proposing constitutional amendment regarding “reproductive freedom”); *State ex rel. One Pers. One Vote v. Ohio Ballot Bd.*, 227 N.E.3d 1105, 1110 (Ohio 2023) (opponents of constitutional amendment concerning how constitution was amended).

national average for public-official mandamus petitions studied here, petitioners who attained a mandamus grant were almost without exception citizens and citizen groups who were complaining to the court about the secretary of state's or governor's failure to perform a duty in the election context.

Florida presents a different picture—although in that state too (although to a smaller degree than Ohio) citizens employed mandamus to press their complaints about elections, particularly if they were political candidates. Eleven of the 26 public-officer mandamus cases decided in Florida, comprising 42%, involved complaints by prospective political candidates concerning their listing on the ballot or other candidate issues.²⁰³

But more pointedly than Ohio, or any other state, recent Florida mandamus filings concerned politicized issues. In particular, two mandamus cases decided in 2024 by the Florida Supreme Court support the conclusion that some petitioners (unsuccessfully) viewed mandamus as the correct remedy to press for swift adjudication of hot political issues.²⁰⁴ As discussed earlier, one mandamus petition involved an anonymous petitioner seeking to compel Governor DeSantis to release records concerning “six or seven pretty big legal conservative heavyweights” whom the governor had stated counseled him on judicial appointments.²⁰⁵ Without mentioning the political ramifications of the petition, the Florida Supreme Court affirmed the court of appeals denial of the petition because it failed to properly specify the scope of records requested.²⁰⁶ Likewise, the Florida Supreme Court denied the petition of a citizen and taxpayer who sought mandamus against the governor and other public officials for participating in a “Leader Call” with “Faith and Community Leaders” regarding a proposed constitutional amendment concerning abortion rights.²⁰⁷ The petitioner alleged that the governor's participation in the call “interfere[d] with the people's right to consider [the] proposed amendment” and violated a state statute limiting political

203. *Beller v. Adams*, 235 So. 2d 502, 503–05 (Fla. 1970) (candidate for governor from minor/unrecognized party); *State ex rel. Boone v. Gray*, 169 So. 611, 612 (Fla. 1936) (proposed candidate); *State ex rel. Ayres v. Gray*, 69 So. 2d 187, 189 (Fla. 1953) (alleged governor candidate); *State ex rel. Cherry v. Stone*, 265 So. 2d 56, 56 (Fla. Dist. Ct. App. 1972) (member of Florida house up for reelection); *State ex rel. Fair v. Adams*, 139 So. 2d 879, 880 (Fla. 1962) (candidate for two offices, state senator and railroad and utility commissioner); *State ex rel. Haft v. Adams*, 238 So. 2d 843, 843 (Fla. 1970) (Democratic party candidate for judge); *State ex rel. Jackson v. Gray*, 170 So. 137, 137 (Fla. 1936) (Communist Party nominees or United States President, senator, and governor); *State ex rel. Bisbee v. Drew*, 17 Fla. 67, 69 (Fla. 1879) (candidate for U.S. Congress); *Davis ex rel. Taylor v. Crawford*, 116 So. 41, 42 (Fla. 1928) (candidate for office); *Eastmoore v. Stone*, 265 So. 2d 517, 517 (Fla. Dist. Ct. App. 1972) (candidate for circuit judge); *State ex rel. Taylor v. Gray*, 25 So. 2d 492, 493 (Fla. 1946) (incumbent as candidate for county solicitor).

204. *See Doe v. Desantis*, 390 So. 3d 1245, 1247–48 (Fla. Dist. Ct. App. 2024); *Richardson v. Sec'y, Fla. Agency for Health Care Admin.*, 395 So. 3d 500, 502 (Fla. 2024).

205. *Desantis*, 390 So. 3d at 1247–48.

206. *Id.* at 1249–50.

207. *Richardson*, 395 So. 3d at 502–03.

activities of state and local public officials.²⁰⁸ The court ruled that the challenged conduct involved the governor's discretion and, if the conduct violated state law, the petitioner could not establish that there was no other legal remedy under civil and criminal law.²⁰⁹

Yet outside of these two recent politically oriented cases, the subjects of Florida mandamus filings lead to a second conclusion: these high-profile public-officer mandamus cases involving political issues were rare before the Florida courts. Before the two 2024 mandamus cases, only one other mandamus case involving the governor or secretary of state arguably constituted a hotly politicized case—the 1936 decision *State ex rel. Jackson v. Gray*, discussed above, in which nominees of the Communist Party for President, United States senator, and governor unsuccessfully sought the secretary of state's certification as candidates.²¹⁰

The overarching picture from these two states displays the breadth and variety of subjects of public-officer mandamus cases as well as, in both states, the predominance of election-related issues, often initiated by citizens or candidates. Although petitioners sometimes filed mandamus petitions to address high-profile political issues, the vast majority of petitioners were citizens (as citizens or as political candidates) seeking to enforce a public officer's duty concerning election processes.

V. THE BENEFITS AND POTENTIAL PITFALLS OF EMPLOYING MANDAMUS

In 1892, S.S. Merrill well expressed in his treatise, *Law of Mandamus*, the interests that mandamus serves in ensuring justice and good government—trends apparent in the 497 public-officer mandamus cases examined in this Article.²¹¹ Merrill observed the numerous reasons justifying issuance of mandamus include “that there is no remedy provided by law for the wrong, but in justice and good government there ought to be a remedy”; “to prevent a defect of justice and a defect of police; to preserve peace, order and good government.”²¹²

Numerous petitioners in the mandamus cases involved in this nationwide study employed mandamus to—as Merrill expressed—promote “justice and good government,” prevent a “defect of police,” and ensure public officials performed required duties.²¹³ Petitioners' action in filing mandamus cases in hundreds of election-related cases—many complaining of defects in election processes and procedures concerning election candidates—displayed their interest in promoting “good government,” or

208. *Id.* at 502.

209. *Id.* at 505.

210. *State ex rel. Jackson v. Gray*, 170 So. 137, 137, 139 (Fla. 1936).

211. S.S. MERRILL, *LAW OF MANDAMUS* 5 (1892).

212. *Id.* (footnotes omitted).

213. *Id.*

at least good government from the perspective of these citizens' interests. And an even more targeted group asserted rights to have public officers perform duties in the initiative and referenda process—a direct democracy and citizen-initiated process.²¹⁴

Moreover, the most significant finding resulting from this broad, nationwide empirical study is the agency mandamus provides to promote citizens' democratic rights—and the hundreds of examples of citizens taking advantage of mandamus as a democracy tool in state courts throughout the country over the last almost two centuries. Further, the percentage of these petitioners who successfully compelled government action in election processes was a substantial 42%, higher than the 38% grant rate for all mandamus petitions concerning governors and secretaries of state. The initiative- and referenda-focused petitioners attained an even higher success rate of 58%.

Previous studies have recognized the powerful and efficient nature of mandamus, particularly in addressing and resolving election disputes.²¹⁵ But this broad-based, empirical study discloses the effective availability of mandamus as a direct democracy tool for citizens to challenge and successfully prod action by public officials concerning election processes. The effectiveness of mandamus in direct democracy contexts, including proposing or opposing initiatives and referenda, particularly display the citizen-directed and empowering nature of mandamus.

But employing mandamus involves potential drawbacks. These fast-track mandamus cases, often filed directly in the state's highest court, necessarily draw judicial attention away from other cases before the court. In addition, greater numbers of mandamus filings—a trend reflected in the greater number of mandamus filings involving governors and secretaries of state in this study over the last twenty-five years—can threaten to crowd or overwhelm court dockets.²¹⁶ High traffic in mandamus cases will, of necessity, result in the delay of other cases of significance to the parties involved and at times to broader society.²¹⁷ Moreover, as scholars have recognized, drawing courts—often state supreme courts—into the public spotlight as the decider of sometimes highly po-

214. See *supra* Part III.

215. Muller, *supra* note 17, at 332.

216. See Elizabeth Lee Thompson, *The Changing Face and Increasingly Targeted Tool of State Interlocutory Appeals*, 55 SETON HALL L. REV. 483, 528–29 (2024) (concluding increased numbers of interlocutory appeals have deleterious effects in clogging dockets and burdening courts); see also Clopton, *supra* note 63, at 83 (describing “dozens of cases . . . filed in the original jurisdiction of state supreme courts in the last few years”).

217. See Thompson, *supra* note 216, at 528–30 (noting similar concerns of delay and prioritizing some cases over others in the context of interlocutory appeals).

liticized mandamus cases threatens to diminish the public's perception of courts as neutral decision-makers.²¹⁸

Notwithstanding these potential downsides of mandamus, the empirical data available from the hundreds of cases studied in this Article establishes that mandamus provides an accessible and repeatedly used tool for citizens to press their democratic rights and demand action from public officials. Certainly changes to the current approach to mandamus could advance citizens' use of the writ further. For example, revising the statutes and constitutional provisions authorizing initiatives and referenda in numerous states to specifically point to the remedy of mandamus to correct public officials' process errors—rather than confining mandamus to the common law—would make the availability of mandamus clearer to potential petitioners.²¹⁹ But overall, the present system provides an avenue for individuals and citizen groups to compel public officials to perform duties on a broad range of subjects—from appointments to payment for services to pardons to incorporations. Yet the most common way petitioners have employed mandamus towards the studied public officials is perhaps among the most crucial for our democracy: ensuring performance of duties in the election process.²²⁰

CONCLUSION

Attorneys and scholars have long recognized the use of mandamus to prompt performance of required duties by courts and public officials. This study of almost 500 mandamus cases involving secretaries of state and governors from all fifty states elucidates two previous inaccessible findings: the central nature of public-official mandamus cases in the United States involving elections over almost two centuries and how petitioners employed mandamus as an enabling tool to press their democratic rights in election processes. Knowledge of this use and empowering nature of mandamus can further use of the writ to buttress democracy, ensure public officials perform governmental duties, and enforce individual rights.

218. See Marshfield, *supra* note 16 (concluding mandamus is increasingly employed to “force hotly contested political issues before state courts”); Clopton, *supra* note 63, at 83–84, 89, 91–92 (discussing politicization of courts in context of original jurisdiction, including mandamus).

219. See *supra* note 184 (citing cases from the sixteen states in which petitioners filed mandamus cases involving initiative and referenda processes in this study with each state providing for mandamus under common law).

220. See *supra* Parts III and IV.

APPENDIX A: TABLE OF ELECTION PROCESSES MANDAMUS CASES
DECIDED BETWEEN 2000 AND 2024 INVOLVING GOVERNORS OR
SECRETARIES OF STATE

Categorized under Westlaw Key Number “Acts and Proceedings of Public Officers and Boards and Municipalities” under the general headings “Mandamus” and “Subjects and Purposes of Relief”

State	Case name	Cite	Petitioners
AR	Martin v. Humphrey	558 S.W.3d 370 (Ark. 2018)	Objector to proposed constitutional amendment
AR	Safe Surgery Ark. v. Thurston	591 S.W.3d 293 (Ark. 2019)	Association that collected signatures for ballot initiative
CA	Patterson v. Padilla*	451 P.3d 1171 (Cal. 2019)	Citizen & California Republican Party
CA	Senior & Disability Action v. Weber	276 Cal. Rptr. 3d 587 (Cal. Ct. App. 2021)	Advocacy groups
GA	Barrow v. Raffensperger	842 S.E.2d 884 (Ga. 2020)	Potential candidates for state supreme court judgeship
ID	Labrador v. Idahoans for Open Primaries	554 P.3d 85 (Idaho 2024)	State attorney general
MI	Citizens Protecting Mich.’s Const. v. Sec’y of State	761 N.W.2d 210 (Mich. Ct. App. 2008)	Ballot question committee organized to challenge RMGN petition
MI	Citizens Protecting Mich.’s Const. v. Sec’y of State	922 N.W.2d 404 (Mich. Ct. App. 2018)	Ballot question committee and qualified elector
MI	League of Women Voters of Mich. v. Sec’y of State	959 N.W.2d 1 (Mich. Ct. App. 2020)	Voting rights organization

State	Case name	Cite	Petitioners
MI	Protect MI Const. v. Sec'y of State	824 N.W.2d 299 (Mich. Ct. App. 2012), <i>rev'd</i> , 819 N.W.2d 428 (Mich. 2012)	Ballot question committee (representing existing casinos objecting to legislation expanding casino gaming)
MI	Stand Up for Democracy v. Sec'y of State	824 N.W.2d 220 (Mich. Ct. App. 2012), <i>rev'd</i> , 822 N.W.2d 159 (Mich. 2012)	Ballot question committee
MO	State <i>ex rel.</i> Basinger v. Ashcroft	677 S.W.3d 562 (Mo. Ct. App.)	Citizen
MO	State <i>ex rel.</i> Nixon v. Blunt	135 S.W.3d 416 (Mo. 2004)	State attorney general
MS	Barbour v. State <i>ex rel.</i> Hood	974 So. 2d 232 (Miss. 2008)	State attorney general
ND	Hendrix v. Jaeger	979 N.W.2d 918 (N.D. 2022)	Chair of North Dakota for Term Limits Sponsoring Committee and North Dakota for Term Limits
NE	State <i>ex rel.</i> Spung v. Evnen	12 N.W.3d 229 (Neb. 2024)	Convicted felons who completed sentences
NE	State <i>ex rel.</i> Wagner v. Evnen	948 N.W.2d 244 (Neb. 2020)	Citizen
NM	State <i>ex rel.</i> Franchini v. Oliver	516 P.3d 156 (N.M. 2022)	Sitting metropolitan and district court judges and association
NM	State <i>ex rel.</i> League of Woman Voters v. Herrera	203 P.3d 94 (N.M. 2009)	Voting rights group

State	Case name	Cite	Petitioners
NM	Unite N.M v. Oliver	438 P.3d 343 (N.M. 2019)	Coalition of political parties, voters, and political organizations
NV	Cegavske v. Hollowood	512 P.3d 284 (Nev. 2022)	Supporters of initiative
NV	We People Nevada <i>ex rel.</i> Angle v. Miller	192 P.3d 1166 (Nev. 2008)	Political action committee
OH	State <i>ex rel.</i> Ames v. LaRose	200 N.E.3d 1128 (Ohio 2022)	Prospective candidate in primary election
OH	State <i>ex rel.</i> Cincinnati Action for Hous. Now v. Hamilton Cnty. Bd. of Elections	173 N.E.3d 1181 (Ohio 2021)	Objectors to ballot language
OH	State <i>ex rel.</i> Citizens Not Politicians v. Ohio Ballot Bd.	253 N.E.3d 12 (Ohio 2024)	Challengers to ballot measure to change how electoral districts were drawn
OH	State <i>ex rel.</i> Colvin v. Brunner	896 N.E.2d 979 (Ohio 2008), <i>abrogated on other grounds by</i> TWISM Enters. LLC v. State Bd. of Registration for Pro. Eng'rs. & Surveyors, 223 N.E.3d 371 (Ohio 2022)	Electors
OH	State <i>ex rel.</i> Cornerstone Devs., Ltd. v. Greene Cnty. Bd. of Elections	49 N.E.3d 273 (Ohio 2016)	Business
OH	State <i>ex rel.</i> Evans v. Blackwell	857 N.E.2d 88 (Ohio 2006)	Challenger to initiative

State	Case name	Cite	Petitioners
OH	<i>State ex rel. Heffelfinger v. Brunner</i>	876 N.E.2d 1231 (Ohio 2007)	Proponents for expedited election action
OH	<i>State ex rel. Hildreth v. LaRose</i>	233 N.E.3d 593 (Ohio 2023)	Proponents of initiative (drag show legislation)
OH	<i>State ex rel. Lenneghan v. Husted</i>	110 N.E.3d 1275 (Ohio 2018)	Candidate in Republican primary for congressional seat
OH	<i>State ex rel. LetOhioVote.org v. Brunner</i>	916 N.E.2d 462 (Ohio 2009)	Ballot issue committee and resident electors and members of committee
OH	<i>State ex rel. Mackey v. Blackwell</i>	834 N.E.2d 346 (Ohio 2005)	Electors and voter-registration organization
OH	<i>State ex rel. Ohio Liberty Council v. Brunner</i>	928 N.E.2d 410 (Ohio 2010)	Political action committee, ballot issue committees, and state electors
OH	<i>State ex rel. Ohioans United for Reprod. Rts. v. Ohio Ballot Bd.</i>	237 N.E.3d 1 (Ohio 2023)	Committee proposing constitutional amendment re: “reproductive freedom”
OH	<i>State ex rel. Ohioans for Secure & Fair Elections v. LaRose</i>	152 N.E.3d 267 (Ohio 2020)	Election organization
OH	<i>State ex rel. One Person One Vote v. LaRose</i>	243 N.E.3d 1 (Ohio 2023)	Opponents of proposed Ohio constitutional amendment
OH	<i>State ex rel. One Person One Vote v. Ohio Ballot Bd.</i>	227 N.E.3d 1105 (Ohio 2023)	Opponents of constitutional amendment concerning amendment process

State	Case name	Cite	Petitioners
OH	<i>State ex rel. Painter v. Brunner</i>	941 N.E.2d 782 (Ohio 2011)	Candidate for judge court of common pleas
OH	<i>State ex rel. Skaggs v. Brunner</i>	900 N.E.2d 982 (Ohio 2008)	Voters
OH	<i>State ex rel. Stokes v. Brunner</i>	898 N.E.2d 23 (Ohio 2008)	Registered voter and citizen
OH	<i>State ex rel. Walker v. LaRose</i>	174 N.E.3d 735 (Ohio 2021)	Electors
OH	<i>State ex rel. Willke v. Taft</i>	836 N.E.2d 536 (Ohio 2005)	Taxpayers
OK	<i>Nichols v. Ziriaux</i>	518 P.3d 883 (Okla. 2022)	Proponents of initiative legalizing, taxing, and regulating marijuana
OR	<i>State ex rel. Ofsink v. Fagan</i>	505 P.3d 973 (Or. 2022)	Submitters of initiative petitions for campaign financing
OR	<i>State ex rel. Koteck v. Fagan</i>	484 P.3d 1058 (Or. 2021)	State legislative leaders
WA	<i>Ball v. Wyman</i>	435 P.3d 842 (Wash. 2018)	Challengers to secretary of state's certification of gun control initiative
WA	<i>Cmty. Care Coal. of Wash. v. Reed</i>	200 P.3d 701 (Wash. 2009)	Community-care coalition, taxpayers, and citizens
WA	<i>McDonald v. Sec'y of State</i>	103 P.3d 722 (Wash. 2004)	Electors & political Committee
WA	<i>Walsh v. Hobbs</i>	557 P.3d 701 (Wash. 2024)	Initiative proponents
WA	<i>Wash. State Lab. Council v. Reed</i>	65 P.3d 1203 (Wash. 2003)	Labor council

State	Case name	Cite	Petitioners
WV	State <i>ex rel.</i> W. Va. Citizen Action Grp. v. Tomblin	715 S.E.2d 36 (W. Va. 2011)	West Virginia Citizen Action Group, individual, and President of AFL-CIO

APPENDIX B: TABLE OF OHIO ELECTION PROCESSES MANDAMUS CASES DECIDED BETWEEN 1892 AND 2024 INVOLVING GOVERNORS OR SECRETARIES OF STATE

Categorized under Westlaw Key Number “Acts and Proceedings of Public Officers and Boards and Municipalities” under the general headings “Mandamus” and “Subjects and Purposes of Relief”

Case name	Cite	Year	Petitioners	Mandamus Granted
State <i>ex rel.</i> v. McKinley	11 Ohio Dec. Reprint 692 (C.P. Ohio 1892)	1892	Alleged candidate for Congress	N
State <i>ex rel.</i> Kautzman v. Graves	110 N.E. 185 (Ohio 1914)	1914	Resident and taxpayer	N
State <i>ex rel.</i> Armstrong v. Davey	198 N.E. 180 (Ohio 1935)	1935	Relator seeking special election	N
State <i>ex rel.</i> Struble v. Myers	6 N.E.2d 1 (Ohio 1937)	1937	Alleged elected county sheriff	N
State <i>ex rel.</i> Herbert v. Bricker	41 N.E.2d 377 (Ohio 1942)	1942	State attorney general	Y
State <i>ex rel.</i> Mecartney v. Hummel	81 N.E.2d 799 (Ohio Ct. App. 1948), <i>aff’d</i> , 80 N.E.2d 436 (Ohio 1948)	1948	Member of Prohibition Party nominated for U.S. Senator;	N

Case name	Cite	Year	Petitioners	Mandamus Granted
State <i>ex rel.</i> Melvin v. Sweeney	94 N.E.2d 785 (Ohio 1950)	1950	Individual relator oppos- ing secretary of state di- rective aiding illiterate vot- ers	Y
State <i>ex rel.</i> Kay v. Lausche	118 N.E.2d 414 (Ohio 1954)	1954	Relator seek- ing special election	N
State <i>ex rel.</i> O'Grady v. Brown	354 N.E.2d 690 (Ohio 1976)	1976	Individual relators op- posed to con- stitutional amendments in initiative petition	N
State <i>ex rel.</i> Williams v. Brown	368 N.E.2d 838 (Ohio 1977)	1977	Individual relators op- posed to con- stitutional amendments in initiative petition	N
State <i>ex rel.</i> Bd. of Twp. Trs. of Nile Twp. v. Brown	484 N.E.2d 152 (Ohio 1985)	1985	Board of township trus- tees	N
State <i>ex rel.</i> Brookpark Ent., Inc. v. Cuyahoga Cnty. Bd. of Elections	573 N.E.2d 596 (Ohio 1991)	1991	Nightclub that sells liquor	N
State <i>ex rel.</i> Hodges v. Taft	591 N.E.2d 1186 (Ohio 1992)	1992	Electors and taxpayers	N

Case name	Cite	Year	Petitioners	Mandamus Granted
State <i>ex rel.</i> Squire v. Taft	632 N.E.2d 883 (Ohio 1994)	1994	Citizen pro- testing state treasurer can- didate	N
State <i>ex rel.</i> Mackey v. Blackwell	834 N.E.2d 346 (Ohio 2005)	2005	Electors and voter- registration organization	N
State <i>ex rel.</i> Willke v. Taft	836 N.E.2d 536 (Ohio 2005)	2005	Taxpayers	N
State <i>ex rel.</i> Evans v. Blackwell	857 N.E.2d 88 (Ohio 2006)	2006	Challenger to initiative	N
State <i>ex rel.</i> Heffelfinger v. Brunner	876 N.E.2d 1231 (Ohio 2007)	2007	Proponents for expedited election action	N
State <i>ex rel.</i> Colvin v. Brunner	896 N.E.2d 979 (Ohio 2008), <i>abrogated on other grounds by</i> TWISM Enters. LLC v. State Bd. of Registration for Pro. Eng'rs. & Surveyors, 223 N.E.3d 371 (Ohio 2022)	2008	Electors	N
State <i>ex rel.</i> Skaggs v. Brunner	900 N.E.2d 982 (Ohio 2008)	2008	Voters	Y
State <i>ex rel.</i> Stokes v. Brunner	898 N.E.2d 23 (Ohio 2008)	2008	Registered voter and resi- dent	Y

Case name	Cite	Year	Petitioners	Mandamus Granted
State <i>ex rel.</i> LetO- hioVote.org v. Brunner	916 N.E.2d 462 (Ohio 2009)	2009	Ballot issue committee and resident elec- tors and mem- bers of com- mittee	Y
State <i>ex rel.</i> Ohio Liberty Council v. Brunner	928 N.E.2d 410 (Ohio 2010)	2010	Political ac- tion commit- tee, ballot issue commit- tees and state electors	Y
State <i>ex rel.</i> Painter v. Brunner	941 N.E.2d 782 (Ohio 2011)	2011	Candidate for judge court of common pleas	Y
State <i>ex rel.</i> Cornerstone Devs., Ltd. v. Greene Cnty. Bd. of Elections	49 N.E.3d 273 (Ohio 2016)	2016	Business	N
State <i>ex rel.</i> Leneghan v. Husted	110 N.E.3d 1275 (Ohio 2018)	2018	Candidate in Republican primary for congressional seat	N
State <i>ex rel.</i> Ohioans for Secure & Fair Elec- tions v. LaRose	152 N.E.3d 267 (Ohio 2020)	2020	Election or- ganization	Y
State <i>ex rel.</i> Cincinnati Action for Hous. Now v. Hamilton Cnty. Bd. of Elections	173 N.E.3d 1181 (Ohio 2021)	2021	Objectors to ballot lan- guage	N

Case name	Cite	Year	Petitioners	Mandamus Granted
State <i>ex rel.</i> Walker v. LaRose	174 N.E.3d 735 (Ohio 2021)	2021	Electors	N
State <i>ex rel.</i> Ames v. LaRose	200 N.E.3d 1128 (Ohio 2022)	2022	Prospective candidate in primary elec- tion	N
State <i>ex rel.</i> Hildreth v. LaRose	233 N.E.3d 593 (Ohio 2023)	2023	Proponents of initiative (drag show legisla- tion)	Y
State <i>ex rel.</i> Ohioans United for Reprod. Rts. v. Ohio Bal- lot Bd.	237 N.E.3d 1 (Ohio 2023)	2023	Commit- tee proposing constitutional amendment regarding re- productive freedom	Y
State <i>ex rel.</i> One Person One Vote v. LaRose	243 N.E.3d 1 (Ohio 2023)	2023	Opponents of proposed state constitutional amendment	N
State <i>ex rel.</i> One Person One Vote v. Ohio Ballot Bd.	227 N.E.3d 1105 (Ohio 2023)	2023	Opponents of constitutional amendment regarding amendment process	Y
State <i>ex rel.</i> Citizens Not Politicians v. Ohio Ballot Bd.	253 N.E.3d 12 (Ohio 2024)	2024	Challengers to ballot measure to change how electoral dis- tricts were drawn	N