

SENATE JOINT RESOLUTION U

November 8, 2018, Introduced by Senator COLBECK and referred to the Committee on Government Operations.

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 28 to article I, to declare the inalienable fundamental right of an individual to use and control certain property.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to declare the inalienable fundamental right of an individual to use and control certain property, is proposed, agreed to, and submitted to the people of the state:

ARTICLE I

SEC. 28. (1) AN INDIVIDUAL HAS AN INALIENABLE FUNDAMENTAL RIGHT TO THE FULL USE AND CONTROL OF HIS OR HER PRIVATE DOMICILE, INCLUDING HIS OR HER LAND AND OTHER PROPERTY WHERE THE DOMICILE IS LOCATED.

(2) THE GOVERNMENT SHALL NOT VIOLATE OR BURDEN, OR ATTEMPT TO

1 VIOLATE OR BURDEN, AN INDIVIDUAL'S RIGHT AS DECLARED IN SUBSECTION
2 (1) WITHOUT A COMPELLING JUSTIFICATION THAT THE VIOLATION OR BURDEN
3 MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

4 (A) IS IN FURTHERANCE OF A COMPELLING GOVERNMENT INTEREST.

5 (B) IS THE LEAST RESTRICTIVE MEANS OF FURTHERING THE
6 COMPELLING GOVERNMENT INTEREST.

7 (3) AN INDIVIDUAL MAY ASSERT A VIOLATION OF THIS SECTION AS A
8 CLAIM OR DEFENSE IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING.

9 (4) THIS SECTION APPLIES TO ALL OF THE LAWS, RULES,
10 REGULATIONS, AND GUIDANCE OF THIS STATE WHETHER ADOPTED BEFORE OR
11 AFTER THE EFFECTIVE DATE OF THIS SECTION.

12 (5) NOTHING IN THIS SECTION PREEMPTS, REPEALS, OR WEAKENS, OR
13 SHALL BE CONSTRUED TO PREEMPT, REPEAL, OR WEAKEN, A LAW, RULE,
14 REGULATION, OR GUIDANCE THAT IS MORE PROTECTIVE OF PROPERTY RIGHTS.

15 (6) AS USED IN THIS SECTION, "GOVERNMENT" MEANS THIS STATE AND
16 ITS BRANCHES, DEPARTMENTS, AGENCIES, COMMISSIONS,
17 INSTRUMENTALITIES, AUTHORITIES, POLITICAL SUBDIVISIONS, PUBLIC
18 UNIVERSITIES, AND ANY AGENT OR CONTRACTUAL PARTNER OF THIS STATE OR
19 ITS BRANCHES, DEPARTMENTS, AGENCIES, COMMISSIONS,
20 INSTRUMENTALITIES, AUTHORITIES, POLITICAL SUBDIVISIONS, OR PUBLIC
21 UNIVERSITIES.

22 Resolved further, That the foregoing amendment shall be
23 submitted to the people of the state at the next general election
24 in the manner provided by law.