

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

HEARING REQUESTED

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65, and for the reasons stated in the accompanying memorandum, declarations and exhibits, all pleadings filed, and any oral argument or testimony to be presented to the Court, Plaintiffs Alabama State Conference of the NAACP, League of Women Voters of Alabama, League of Women Voters of Alabama Education Fund, Greater Birmingham Ministries, and Alabama Disabilities Advocacy Program (collectively, “Plaintiffs”) respectfully move for the following preliminary injunctive relief:

(1) Enjoin Defendants, along with their respective agents, officers, employees, and successors, from implementing or enforcing the following Challenged Provisions of Alabama Senate Bill 1, Act No. 2024-33 (“SB 1”):¹

a. **Payment Provisions**: SB 1 makes it “unlawful for a third party to knowingly

¹ See 2024 Alabama Laws Act 2024-33 (S.B. 1), https://1.next.westlaw.com/Document/I193614D0E76211EEBDB185AF89C5BCF3/View/FullText.html?VR=3.0&RS=cblt1.0&__lrTS=20240501162006477&transitionType=Default&contextData=%28sc.Default%29. Section 1 of SB 1 amends Ala. Code Section 17-11-4, which governs absentee applications. Sections 2, 3, and 4 of SB 1 contain other provisions. Hereinafter, citations to Section 1 of SB 1 will be denoted by “§ 17-11-4.” Citations to other sections of SB 1 will be identified by section number.

receive a payment,” or “knowingly pay . . . a third party,” to “distribute, order, request, collect, prefill, complete, obtain, or deliver a voter’s absentee ballot application.” § 17-11-4(d)(1)-(d)(2). These provisions carry a Class B or C felony penalty (Class C for assistors who “receive a payment” and Class B for those who “pay” such assistor). *Id.*

- b. **Gift Provisions**: SB 1 makes it “unlawful for a third party to knowingly receive . . . a gift,” or “knowingly . . . provide a gift,” to a “third party” to “distribute, order, request, collect, prefill, complete, obtain, or deliver a voter’s absentee ballot application.” § 17-11-4(d)(1)-(d)(2). These provisions carry a Class B or C felony penalty (Class C for assistors who “receive a . . . gift” and Class B for those who “provide a gift” to such assistor). *Id.*
- c. **Prefilling Restriction**: SB 1 makes it “unlawful for any person to knowingly distribute an absentee ballot application to a voter that is prefilled with the voter’s name or any other information required on the application form.” § 17-11-4(b)(2). This provision carries a Class A misdemeanor penalty. SB 1 § 2.
- d. **Submission Restriction**: SB 1 makes it “unlawful for an individual to submit a completed absentee ballot application to the absentee election manager other than his or her own application,” unless that person is seeking emergency medical treatment within five days before an election. § 17-11-4(c)(2). The application “may be submitted” by personally dropping off one’s own application with the Absentee Election Manager or placing one’s own application in the mail/commercial carrier. *Id.* This provision carries a Class A misdemeanor penalty. SB 1 § 2.

(2) Enjoin Defendants, along with their respective agents, officers, employees, and successors, from issuing any instructions or communications—whether public-facing or otherwise—indicating that the Challenged Provisions prohibit any form of absentee application assistance, and order Defendants to issue corrective instructions stating that the Challenged Provisions have been preliminary enjoined and accordingly, that those provisions are not enforceable.

DATED: May 2, 2024

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system which provides electronic notice of filing to all counsel of record.

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**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
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INTRODUCTION

Plaintiffs¹ are civil rights, faith-based, and disability rights organizations that promote civic participation by educating and assisting Alabamians to vote, including by assisting voters with the multi-step application process for voting absentee. Alabama Senate Bill 1 (“SB 1”)² is a sweeping and vague statute that turns such civic and neighborly engagement into serious crimes. Plaintiffs seek a preliminary injunction against four provisions of SB 1 that unconstitutionally restrict their speech and activities regarding absentee assistance and violate federal law (the “Challenged Provisions”).³

As Plaintiffs prepare to undertake civic engagement activities for the November 2024 general election, the Challenged Provisions are severely restricting their ability under the First and Fourteenth Amendments to speak and engage with each other and with voters who require absentee application assistance. The Challenged Provisions also violate the right of disabled, blind, and low literacy voters to assistance guaranteed by Section 208 of the Voting Rights Act (“VRA”). And the Challenged Provisions appear to prohibit voter assistance that Plaintiff ADAP is federally mandated to undertake under the Help America Vote Act of 2002 (“HAVA”). Plaintiffs respectfully request that the Challenged Provisions be preliminarily enjoined to prevent these serious ongoing harms.

¹ Plaintiffs are the Alabama State Conference of the NAACP (“Alabama NAACP”), League of Women Voters of Alabama and League of Women Voters of Alabama Education Fund (collectively, “LWVAL”), Greater Birmingham Ministries (“GBM”), and Alabama Disabilities Advocacy Program (“ADAP”).

² See 2024 Alabama Laws Act 2024-33 (S.B. 1), https://1.next.westlaw.com/Document/I193614D0E76211EEBDB185AF89C5BCF3/View/FullText.html?VR=3.0&RS=cblt1.0&__lrTS=20240501162006477&transitionType=Default&contextData=%28sc.Default%29. Section 1 of SB 1 amends Ala. Code Section 17-11-4, which governs absentee applications. Sections 2, 3, and 4 of SB 1 contain other provisions. Hereinafter, citations to Section 1 of SB 1 will be denoted by “§ 17-11-4.” Citations to other sections of SB 1 will be identified by section number.

³ As described below, the Challenged Provisions are: (i) the Payment Provisions (§ 17-11-4(d)(1)-(d)(2)), (ii) the Gift Provisions (§ 17-11-4(d)(1)-(2)), (iii) the Prefilling Restriction (§ 17-11-4(b)(2)), and (iv) the Submission Restriction (§ 17-11-4(c)(2)).

FACTUAL BACKGROUND

I. Alabama's Multi-Step Process for Applying to Vote Absentee.

Under Alabama law, with limited emergency exceptions, absentee voting is permitted only if a voter: (i) will be absent from the county of residence on Election Day; (ii) is ill or has a physical disability that prevents a trip to the polling place; (iii) is enrolled as a student at an educational institution located outside the county of his or her personal residence, attendance at which prevents his or her attendance at the polls; (iv) is an appointed election officer or poll watcher at a polling place other than their regular polling place; (v) is working a required shift of ten hours or more that coincides with polling hours; (vi) is a caregiver for a family member (to the second degree of kinship) and the family member is confined to their home; (vii) is currently incarcerated in prison or jail, but has not been convicted of a felony involving moral turpitude; (viii) is a member of, or spouse or dependent of a member of, the Armed Forces of the United States or is similarly qualified to vote absentee pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act.⁴ There is no broad right to vote absentee for everyone over 65, nor for everyone with a disability.

For the subset of voters who do qualify to vote absentee, there is a multi-step process for applying to do so. The application form is specified by the Alabama Secretary of State and, under SB 1, Alabama no longer allows voters to request absentee ballots without using this form.⁵ The current application is two pages and includes various fields for the voter to complete, including full name, physical and mailing addresses, e-mail address, date of birth, personal and work phone numbers, driver's license or social security number, and election(s) in which they are applying to vote absentee.⁶ The application also requires the voter to review and select from the list of excuses

⁴ Ala. Code § 17-11-3.

⁵ *Id.* § 17-11-4(a).

⁶ Alabama's generic absentee application form is available on the Alabama Secretary of State's website.

to vote absentee and lists the Alabama crimes that disqualify an individual from voting as well as the penalties for failing to properly fill out and submit the form.

The application can be accessed in one of the following ways: (i) online, downloaded, and printed, (ii) in hard copy from the relevant county Absentee Election Manager; or (iii) in hard copy by mail, if a written request is first sent to the Absentee Election Manager.⁷ The form then must be completed fully and correctly, including by obtaining a witness signature if the voter signs by mark.⁸ The completed application packet also must include a printed copy of the voter's valid photo identification. Then, the application packet must be returned to the Absentee Election Manager either in person or by mail/commercial carrier.⁹ Absentee applications must be received by the Absentee Election Manager seven days prior to the relevant election if submitted by mail (or five days prior if submitted in person).¹⁰ Voters must submit separate applications for elections more than 42 days apart.

II. SB 1's Enactment and the Challenged Provisions.

On March 19, 2024, the Alabama Legislature enacted SB 1. The Governor signed the bill into law the next day. In key part, SB 1 amends Ala. Code § 17-11-4, which governs absentee applications, to add new restrictions and criminal penalties.¹¹ The Challenged Provisions are:

- **Payment Provisions**: SB 1 makes it “unlawful for a third party to knowingly receive a

⁷ Ala. Sec'y of State, “Absentee Voting Information,” <https://www.sos.alabama.gov/alabama-votes/voter/absentee-voting>.

⁸ Ala. Code § 17-11-4(b)(1).

⁹ *Id.* §§ 17-11-3(a), 17-11-4(c)(1).

¹⁰ *Id.* § 17-11-3(b).

¹¹ SB 1 specifies that it goes into effect “immediately following its passage and approval by the governor, or its otherwise becoming law.” SB 1 at Section 4. However, Defendant Secretary of State Wes Allen, who is responsible for “provid[ing] uniform guidance for election activities,” Ala. Code § 17-1-3(a), has advised that SB 1 will go into effect for the November 5, 2024 general election. *See* Mike Cason, AL.com, “Sec’y of State Wes Allen says Alabama’s new absentee voting law in effect for November election” (Mar. 23, 2024), <https://www.al.com/news/2024/03/secretary-of-state-wes-allen-says-alabamas-new-absentee-voting-law-in-effect-for-november-election.html>; *see also* Ala. Const. art. IV § 111.08 (providing that “the implementation date for any bill enacted by the Legislature in a calendar year in which a general election is to be held and relating to the conduct of the general election shall be at least six months before the general election”).

payment,” or “knowingly pay . . . a third party,” to “distribute, order, request, collect, prefill, complete, obtain, or deliver a voter’s absentee ballot application.” § 17-11-4(d)(1)-(d)(2). These provisions carry a Class B or C felony penalty (Class C for assistors who “receive a payment” and Class B for those who “pay” such assistor). *Id.*

- **Gift Provisions**: SB 1 makes it “unlawful for a third party to knowingly receive a . . . gift,” or “knowingly . . . provide a gift,” to a “third party” to “distribute, order, request, collect, prefill, complete, obtain, or deliver a voter’s absentee ballot application.” § 17-11-4(d)(1)-(d)(2). These provisions carry a Class B or C felony penalty (Class C for assistors who “receive a . . . gift” and Class B for those who “provide a gift” to such assistor). *Id.*
- **Prefilling Restriction**: SB 1 makes it “unlawful for any person to knowingly distribute an absentee ballot application to a voter that is prefilled with the voter’s name or any other information required on the application form.” § 17-11-4(b)(2). This provision carries a Class A misdemeanor penalty. SB 1 § 2.
- **Submission Restriction**: SB 1 makes it “unlawful for an individual to submit a completed absentee ballot application to the absentee election manager other than his or her own application,” unless that person is seeking emergency medical treatment within five days before an election. § 17-11-4(c)(2). The application “may be submitted” by personally dropping off one’s own application with the Absentee Election Manager or returning one’s own application in the mail/commercial carrier. *Id.* This provision carries a Class A misdemeanor penalty. SB 1 § 2.

In Alabama, Class B felonies carry a sentence of up to 20 years,¹² Class C felonies carry a

¹² Ala. Code § 13A-5-6. Other Class B felonies include first-degree manslaughter and second-degree rape. *Id.* §§ 13A-6-3, 13A-6-2.

sentence of up to 10 years,¹³ and Class A misdemeanors carry a sentence of up to one year and a \$6,000 fine.¹⁴ SB 1 does not define any of the statutory terms that trigger criminal liability, including no definitions for “payment,” “gift,” “third-party,” “prefill,” “distribute,” or “submit.”

SB 1 also newly requires that voters apply for absentee ballots using the Secretary of State’s specified printed form; Alabama no longer allows handwritten absentee requests. § 17-11-4(a). Elsewhere, SB 1 states “[a]ny applicant may receive assistance in filling out the application as he or she desires. . . .” § 17-11-4 (b)(1). SB 1 also states that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by an individual of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” § 17-11-4(e).

III. Proffered Justification for SB 1.

Proponents repeatedly and consistently asserted that SB 1’s justification was to target so-called absentee “ballot harvesting.” SB 1’s sponsor, Senator Garlan Gudger, averred that SB 1 is intended to address “ballot harvesting” by “groups or individuals seek[ing] to profit off the absentee voting process.”¹⁵ For example, he testified before the Senate State Government Affairs Committee that “this bill is meant for ballot harvesting.”¹⁶

Upon signing SB 1, Governor Kay Ivey stated that the bill would “ban[] ballot harvesting.”¹⁷ Defendant Secretary of State Wes Allen commented: “[t]he passage of SB1 signals to ballot harvesters that Alabama votes are not for sale. The Alabama Legislature and Governor

¹³ *Id.* § 13A-5-6. Other Class C felonies include third-degree robbery and first-degree stalking. *Id.* §§ 13A-6-90, 13A-8-43.

¹⁴ *Id.* §§ 13A-5-7, 13A-5-12. Other Class A misdemeanors include third-degree domestic violence and cruelty to animals. *Id.* §§ 13A-6-132, 13A-11-241.

¹⁵ Jacob Holmes, Ala. Political Reporter, “Legislature passes bill criminalizing ballot harvesting” (Mar. 8, 2024), <https://www.alreporter.com/2024/03/08/legislature-passes-bill-criminalizing-ballot-harvesting/>.

¹⁶ Ex. B to Decl. of Lauren Bishop (“Bishop Decl.”) at 34:9-10.

¹⁷ Ala. Office of the Governor, “Governor Ivey Signs Senate Bill 1, Bans Ballot Harvesting” (Mar. 20, 2024), <https://governor.alabama.gov/newsroom/2024/03/governor-ivey-signs-senate-bill-1-bans-ballot-harvesting/>.

Ivey have made it clear that Alabama voters have the right to cast their own vote without undue influence.”¹⁸

Neither SB 1’s sponsor nor the Governor nor Defendant Allen has ever explained what is meant by “taking people’s votes”; what “ballot harvesting” is; whose votes have been “for sale”; what “undue influence” occurs; or the relationship between absentee ballot *applications* and any of these purported concerns. Likewise, legislative proceedings did not include any actual evidence of problems regarding “ballot harvesting,” either in general or with respect to absentee voting specifically.¹⁹ During legislative proceedings, members of the public, including Plaintiffs, provided extensive testimony about the lack of evidence of voter fraud or problems with “ballot harvesting,” vagueness of the terms used in SB 1, and likelihood that SB 1’s criminal sanctions would severely chill voter assistance across the state.²⁰

IV. SB 1’s Impact on Alabama Voters and on Plaintiffs’ Ability to Assist Such Voters.

For those who qualify, absentee voting provides access to the franchise when in-person voting would be challenging if not impossible. But because of the numerous steps involved in applying to vote absentee, such voters (including senior citizen, disabled, blind, low literacy, and incarcerated voters) often rely on assistance in the process from family, neighbors, and civic organizations like Plaintiffs. SB 1 severely impacts voters who require such assistance, as well as assistors like Plaintiffs who would fill this need.

A. SB 1’s Impact on Voters.

Senior Citizen and Disabled Voters. Approximately 18% of all Alabamians are over 65 years old.²¹ According to the Centers for Disease Control, more than 30% of all adults in Alabama

¹⁸ *Id.*

¹⁹ See Exs. A & B to Bishop Decl.

²⁰ See *id.*; Doc. 1 (Compl.) ¶¶ 54-59 (quoting public testimony).

²¹ See United States Census Bureau, *Alabama QuickFacts* <https://www.census.gov/quickfacts/fact/table/AL/PST045223>. (last accessed May 1, 2024).

have some form of disability, including many with mobility and vision impairments.²² For Alabamians over 65 years old, the number rises to nearly half (47.8%).²³ Approximately nine percent of adults in Alabama have “serious difficulty doing errands alone.”²⁴

Many of these individuals often can *only* access the right to vote by casting absentee ballots, such as individuals confined to a bed, with mobility impairments or other impairments, or whose movement is restricted (such as individuals in jail, prison, or state mental health or forensic hospitals). Decl. of Scott Douglas (“GBM Decl”) ¶ 22; Decl. of Nicole Watkins (“ADAP Watkins Decl.”) ¶¶ 6, 9, 14. And moreover, as discussed below, many of these individuals depend on assistance from others, including from Plaintiffs, to exercise this right, including the absentee application assistance that may now be criminalized under SB 1. Decl. of Benard Simelton (“Alabama NAACP Decl.”) ¶¶ 20-21; Decl. of Kathy Jones (“LWVAL Decl.”) ¶ 24; GBM Decl. ¶¶ 22, 32; ADAP Watkins Decl. ¶¶ 11-14. If denied an accessible absentee voting process, many of these individuals would effectively be precluded from participating in what for them is the only way to vote. ADAP Watkins Decl. ¶ 14.

Illiterate and Low Literacy Voters. Per the National Center for Education Statistics, Alabama has the 44th lowest literacy rate in the country.²⁵ In 2022, 56% of Black Alabamians and 46% of Latino Alabamians, compared to 28% of white Alabamians, had “below” basic literacy

²² See Centers for Disease Control and Prevention Disability and Health Data System (DHDS), *Alabama*, <https://dhds.cdc.gov/SP?LocationId=01&CategoryId=DISEST&ShowFootnotes=true&showMode=&IndicatorIds=STATTYPE,AGEIND,SEXIND,RACEIND,VETIND&pnl0=Chart,false,YR6,CAT1,BO1,,,,AGEADJPREV&pnl1=Chart,false,YR6,DISSTAT,,,,PREV&pnl2=Chart,false,YR6,DISSTAT,,,,AGEADJPREV&pnl3=Chart,false,YR6,DISSTAT,,,,AGEADJPREV&pnl4=Chart,false,YR6,DISSTAT,,,,AGEADJPREV&t=1714216511663> . (last accessed May 1, 2024)

²³ See *id.*

²⁴ See Centers for Disease Control and Prevention, *Disability and Health Promotion- Alabama*, <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/alabama.html> (last accessed May 1, 2024).

²⁵ Institute of Education Sciences- National Center for Education Statistics, *2022 Reading State Snapshot Report, Alabama* (2022), <https://nces.ed.gov/nationsreportcard/subject/publications/stt2022/pdf/2023010AL8.pdf> (last accessed May 1, 2024).

skills in the eighth grade.²⁶ Further, per U.S. Census estimates, among the state’s citizen voting-age population, 27% of Spanish-speakers speak English “less than very well.”²⁷ Given the reading comprehension and writing required to apply for an absentee ballot and the fact that Alabama does not offer its absentee applications in languages other than English, many illiterate and low literacy Alabamians require assistance from others, including from Plaintiffs, to complete the application process. Alabama NAACP Decl. ¶ 20; ADAP Watkins Decl. ¶ 4. SB 1’s restrictions severely limit their access to such assistance and therefore severely burden their right to vote.

Incarcerated Voters. In Alabama, voters who are incarcerated and who have not been convicted of a crime of “moral turpitude,” including pre-trial detainees, remain eligible to vote.²⁸ As of February 2024, the Alabama Department of Corrections had over 27,000 inmates in its jurisdiction (including jails and prisons).²⁹ According to the National Institute on Corrections, the jail population in Alabama was 16,520 in 2020.³⁰

Incarceration is one of the state’s qualifying excuses to vote absentee.³¹ Because no county in Alabama provides jail- or prison-based voting sites, absentee voting is the only way that eligible incarcerated voters are able to vote. GBM Decl. ¶ 22. Given the number of steps involved in applying for an absentee ballot and the confinement restrictions to which incarcerated voters are subject (such as limitations on access to the internet, printers/copiers, and mailing supplies) eligible

²⁶ *Id.*

²⁷ United States Census Bureau, *Why We Ask Questions About Language Spoken at Home*, <https://www.census.gov/acs/www/about/why-we-ask-each-question/language/> (last accessed May 1, 2024); United States Census Bureau, “Language Spoken at Home.” *American Community Survey, ACS 1-Year Estimates Subject Tables, Table S1601*, 2022, [https://data.census.gov/table/ACSST1Y2022.S1601?t=Language Spoken at Home&g=040XX00US01&moe=false](https://data.census.gov/table/ACSST1Y2022.S1601?t=Language%20Spoken%20at%20Home&g=040XX00US01&moe=false). (last accessed May 1, 2024).

²⁸ Ala. Const. art. VIII § 177 (2022); Ala. Code § 17-3-30.1(c).

²⁹ Alabama Department of Corrections, *Monthly Statistical Report for February 2024*, <https://doc.alabama.gov/docs/MonthlyRpts/February%202024.pdf> (last accessed May 1, 2024).

³⁰ National Institute of Corrections, *Alabama State Statistics Information*, <https://nicic.gov/resources/nic-library/state-statistics/2020/alabama-2020> (last accessed May 1, 2024).

³¹ Ala. Code § 17-11-3.

incarcerated voters depend on assistance from others, like Plaintiffs GBM and Alabama NAACP and prison or jail staff, to vote. Alabama NAACP Decl. ¶¶ 12; GBM Decl. ¶¶ 22, 29.

B. SB 1's Impact on Plaintiffs.

As described further herein and in Plaintiffs' accompanying declarations, Plaintiffs have paid staff and volunteers who assist voters with absentee applications, *e.g.*, by providing the printed applications, helping voters to read, understand, and complete applications, and providing envelopes and postage so that applications can be returned. This includes voters who depend on assistance with the application process, such as senior citizen, disabled, low literacy, and incarcerated voters. Because of SB 1's extreme vagueness and severe criminal penalties, SB 1 restricts Plaintiffs from engaging in absentee application assistance, which is a critical part of how they convey their message to encourage participation in the democratic process.

Alabama NAACP. Plaintiff Alabama NAACP is the state conference of the National Association for the Advancement of Colored People, Inc. and is a nonpartisan organization dedicated to ensuring the political, educational, social, and economic equality of Black Americans and all other Americans and to eliminate racial discrimination in the democratic process. Alabama NAACP Decl. ¶¶ 2, 5. Voter assistance activities, including absentee ballot application assistance, are a core part of the Alabama NAACP's voter education and engagement programs and are part of its mission to encourage participation in the democratic process. *Id.* ¶ 7. The Alabama NAACP's activities have included assistance for voters in nursing homes and jails who could not otherwise vote without such assistance, such as by providing hard copies of the application and mailing supplies. *Id.* ¶ 12. For the November 2024 election and going forward, the Alabama NAACP would like to continue engaging in absentee ballot application assistance for its members and Alabamians more broadly. *Id.* ¶ 22.

LWVAL. Plaintiff LWVAL is comprised of nonpartisan, nonprofit, grassroots organizations that seek to encourage informed and active participation in government, work to increase understanding of major public policy issues, and influence public policy through education and advocacy. LWVAL's voter services teams engage voters, including by assisting with the absentee process. LWVAL Decl. ¶¶ 9-13. To that end, LWVAL provides regular training to its local chapter leaders, their members, their volunteers, and to their nonpartisan partners to assist voters in getting registered, applying for an absentee ballot, and voting absentee. *Id.* ¶ 10. LWVAL considers its absentee application assistance to be an expression of its core values. *Id.* ¶ 11. As recently as the March 2024 primary election, LWVAL volunteers have assisted voters with absentee ballot applications, including senior citizens who require assistance, and voters with disabilities. *Id.* ¶ 5. LWVAL's assistance has included providing printed applications, making photocopies of voters' photo IDs, working with the voter to ensure the application is accurately filled out, and providing envelopes and postage to submit such application. *Id.* ¶ 18. For the year 2024 and after, LWVAL hopes to engage in absentee ballot application assistance on behalf of its members and the communities it serves across the state of Alabama. *Id.* ¶ 6.

GBM. Plaintiff GBM is a multi-faith, multi-racial, membership organization that provides emergency services to people in need and engages people to build a strong, supportive, and engaged community and to build a more just society for all. GBM Decl. ¶ 5. GBM is a nonpartisan, nonprofit organization. *Id.* ¶ 2. To promote civic engagement in the communities it serves, GBM engages in voter education and assistance, including discussing civics with incarcerated individuals and assisting Alabamians to register to vote, restore their voting rights, and encourage them to vote, including by absentee ballot. *Id.* ¶ 6. GBM engages in voter assistance to express a clear message: voting is a person's fundamental right and is the key to advancing civil and human

rights in Alabama. *Id.* ¶ 7. GBM provides printed absentee applications, pens, and mailing supplies to eligible voters and GBM’s staff and volunteers also spend time with each voter to ensure that their application is marked correctly and completely. *Id.* ¶ 12. As recently as the March 2024 primary election, GBM paid staff and volunteers assisted voters with absentee ballot applications, including eligible incarcerated voters who are in prison or jail. *Id.* ¶¶ 3, 21. For the November 2024 general election and in the future, GBM would like to engage in absentee ballot application assistance on behalf of the communities it serves in the Greater Birmingham area and across Alabama. *Id.* ¶ 4.

ADAP. Plaintiff ADAP is the duly authorized Protection and Advocacy Program (“P&A”) of Alabama, as designated under federal law.³² Decl. of Nancy Anderson (“ADAP Anderson Decl.”) ¶ 2. As such, ADAP provides legal services to Alabama residents with disabilities to promote their rights and all Alabama voters with disabilities are constituents of ADAP. *Id.* As a P&A, ADAP is accountable to members of the disability community and is authorized under federal law to represent the interests of Alabamans with disabilities. *Id.* ADAP’s mission is to achieve equality in opportunity for people with disabilities, including in voting. *Id.* Through its work, ADAP seeks to convey the message that voting should be accessible to all, regardless of disability status. *Id.* ¶ 9. ADAP has a staff member whose primary responsibility is to undertake voter education and promote voting rights for people with disabilities, including by assisting them with applying for absentee ballots and helping residential facility staff to do the same. *Id.* ¶¶ 7-8; ADAP Watkins Decl. ¶¶ 2-10. ADAP receives a federal grant under HAVA to undertake this work. ADAP Anderson Decl. ¶¶ 5-10; ADAP Watkins Decl. ¶ 2. As recently as the March 2024 primary election, ADAP assisted disabled voters with absentee applications. ADAP Watkins Decl. ¶ 10.

³² See 42 U.S.C. § 15041 *et seq.*; 42 U.S.C. § 10801 *et seq.*; 29 U.S.C. § 794e *et seq.*

ADAP would like to continue its work, and indeed its legal obligation, to assist its disabled constituents with absentee applications for the November 2024 general election and beyond.

ADAP Watkins Decl. ¶ 11.

* * *

If not for SB 1, Plaintiffs would assist voters with absentee applications for the November 2024 general election and beyond. However, Plaintiffs and their paid staff and volunteers are unlikely to engage in these activities given their reasonable fear of criminal prosecution if they continue any assistance with absentee applications. Alabama NAACP Decl. ¶¶ 19-21; LWVAL Decl. ¶ 27; GBM Decl. ¶ 33; ADAP Watkins Decl. ¶¶ 11, 14. As a result of SB 1, Plaintiffs are being forced to cancel speech and expressive activities regarding absentee application assistance. Alabama NAACP Decl. ¶ 17; LWVAL Decl. ¶ 26; GBM Decl. ¶¶ 24-31; ADAP Watkins Decl. ¶ 14. Plaintiff ADAP, which receives federal funding to conduct absentee application assistance that is now possibly criminalized under SB 1, has also directed its staff not to engage in this work notwithstanding its federal obligation to do so. ADAP Anderson Decl. ¶ 12; ADAP Watkins Decl. ¶ 14. Some of Plaintiffs' members and constituents are also fearful that they could face criminal prosecution under SB 1 for simply receiving assistance with their absentee applications. Alabama NAACP Decl. ¶ 21; ADAP Watkins Decl. ¶¶ 12-13. Accordingly, it is likely that at least some of these voters will forego assistance even if they need it and may not even vote at all. ADAP Watkins Decl. ¶ 14.

ARGUMENT

A preliminary injunction is warranted if Plaintiffs establish: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent an injunction; (3) the harm they will experience outweighs any injury the opposing party may experience under the injunction; and (4) the injunction would not be adverse to the public interest. *Honeyfund.com Inc. v. Governor*, 94 F.4th 1272, 1277 (11th Cir. 2024). Plaintiffs satisfy all four requirements.

I. Plaintiffs Have Standing.

As a threshold matter, Plaintiffs have standing. *First*, Plaintiffs have direct standing to bring their First and Fourteenth Amendment claims because the “credible threat” of criminal liability chills Plaintiffs’ speech. *Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1304 (11th Cir. 2017) (en banc). When a plaintiff challenging a law is the subject of its enforcement, “there is ordinarily little question that the [government’s] action or inaction has caused him injury[.]” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561–62 (1992). Here, SB 1’s restrictions force Plaintiffs to limit their First Amendment activities due to their “actual and well-founded fear that the law will be enforced against them.” *Virginia v. Am. Booksellers Ass’n, Inc.*, 484 U.S. 383, 393 (1988). This direct First Amendment harm alone confers standing on Plaintiffs. *See Wilson v. State Bar of Ga.*, 132 F.3d 1422, 1428 (11th Cir. 1998) (explaining that “the injury is self-censorship”).

In addition, each Plaintiff has direct standing to bring their claims because they have cancelled and/or restricted planned voter assistance activities and been forced to divert resources to educate and respond to SB 1’s changes to the law. Alabama NAACP Decl. ¶¶ 14-16; LWVAL Decl. ¶¶ 26-31; GBM Decl. ¶¶ 24-31; ADAP Anderson Decl. ¶ 12; ADAP Watkins Decl. ¶¶ 12-14; *see, e.g., Fla. State Conf. of NAACP v. Browning*, 522 F.3d 1153, 1165–66 (11th Cir. 2008) (recognizing organizational standing where organizations “reasonably anticipate[d] that they [would] have to divert personnel and time to educating volunteers and [affected individuals] on

compliance” with the statute’s requirements). Plaintiff ADAP also has direct standing to bring its claim under HAVA because SB 1 harms its ability to engage in voter assistance that it is federally mandated to undertake pursuant to HAVA. ADAP Anderson Decl. ¶¶ 12-13.

Second, Plaintiffs have associational standing on behalf of their members and constituents. *See Baughcum v. Jackson*, 92 F.4th 1024, 1031 (11th Cir. 2024) (explaining that associational standing exists where (i) members “otherwise have standing to sue,” (ii) “the interests the lawsuit seeks to protect must be germane to the [organization’s] purpose,” and (iii) “the claim can be resolved . . . without the participation of individual members”). Not only has Plaintiffs’ speech been chilled by a reasonable fear of enforcement of SB 1, *see Wilson*, 132 F.3d at 1428, but Plaintiffs also have cancelled plans for absentee voter assistance programming because of fear of criminal liability for themselves and their members and volunteers. Alabama NAACP Decl. ¶ 17; LWVAL Decl. ¶¶ 26, 31; GBM Decl. ¶¶ 30-31; ADAP Anderson Decl. ¶ 12; ADAP Watkins Decl. ¶ 14. Further, Plaintiffs’ blind, disabled, and/or low literacy members and constituents are suffering injury to their right to receive assistance under Section 208. Alabama NAACP Decl. ¶ 12; LWVAL Decl. ¶¶ 24-25; GBM Decl. ¶ 33; ADAP Anderson Decl. ¶ 12; ADAP Watkins Decl. ¶ 14.

And, because these injuries are “directly traceable to the passage of [SB 1],” they “would be redressed by enjoining each provision.” *Ga. Latino All. for Hum. Rts. v. Governor of Ga.*, 691 F.3d 1250, 1260 (11th Cir. 2012).

II. Plaintiffs Are Substantially Likely to Succeed on the Merits of their Constitutional Claims.

A. SB 1 Unconstitutionally Burdens Plaintiffs’ Core Political Speech and Associational Activity.

The First Amendment squarely protects Plaintiffs’ absentee ballot application assistance activities for three reasons. *First*, because this assistance is interactive communication about voting, its restriction limits core political speech. *Second*, absentee ballot application assistance is

also expressive conduct conveying a message about the importance of voting. *Third*, providing this assistance is one of Plaintiffs’ chosen means of associating with others in the pursuit of their shared social and political goals. Thus, by broadly criminalizing absentee ballot application assistance activities, the Challenged Provisions severely burden Plaintiffs’ First Amendment rights to speech, expressive conduct, and association.

1. Absentee Application Assistance Is Core Political Speech.

The “dissemination of information [is] speech within the meaning of the First Amendment.” *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011). And the First Amendment “affords the broadest protection” to core political speech, especially to “[d]iscussion of public issues” related to the political process. *Buckley v. Valeo*, 424 U.S. 1, 14 (1976). Our country has a “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). For that reason, “there is practically universal agreement that a major purpose of [the First Amendment] was to protect the free discussion of governmental affairs,” including “all such matters relating to political processes.” *Mills v. Alabama*, 384 U.S. 214, 218–19 (1966). Consistent with these fundamental principles, activities that “involve[] interactive communication concerning political change” are “appropriately described as ‘core political speech’” and are subject to special First Amendment scrutiny. *See Meyer v. Grant*, 486 U.S. 414, 421–22 (1988); *Vill. of Schaumburg v. Citizens for a Better Env’t*, 444 U.S. 620, 628–32 (1980).

Here, Plaintiffs’ absentee ballot assistance activities are core political speech because Plaintiffs accomplish their assistance through interactive communications that encourage others to vote. *See League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1158 (N.D. Fla. 2012) (“[E]ncouraging others to register to vote” is “pure speech,” and, because that speech is political in nature, it is a “core First Amendment activity.”). As a central part of that political

speech, Plaintiffs regularly hold and participate in events at which they distribute absentee ballot applications to voters, answer questions about the absentee voting process, and assist eligible voters with completing their applications. Alabama NAACP Decl. ¶ 8, 9, 11; LWVAL Decl. ¶ 14; GBM Decl. ¶ 11; ADAP Watkins Decl. ¶ 5. It would be impossible for Plaintiffs to assist voters with their applications without “disclos[ing]” and “disseminat[ing] information,” including by speaking with voters about how to fill out their applications. *NetChoice, LLC v. Att’y Gen., Fla.*, 34 F.4th 1196, 1210 (11th Cir. 2022) (quotation marks omitted). Because Plaintiffs’ absentee ballot application assistance “depends on[] and cannot be separated from” Plaintiffs’ speech, the Challenged Provisions are “functionally a regulation of speech.” *Honeyfund.com Inc.*, 94 F.4th at 1278; see *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 389 (5th Cir. 2013) (recognizing that activities including “distributing” registration forms and “helping voters to fill out their forms” involve speech (quotation marks omitted)). Moreover, Plaintiffs’ speech is political in nature because it facilitates and encourages voting. See *VoteAmerica v. Raffensperger*, No. 21 Civ. 1390, 2023 WL 6296928, at *9 (N.D. Ga. Sept. 27, 2023) (“Encouraging others to vote or engage in the political process is the essence of First Amendment expression.”). Accordingly, regulation of absentee ballot application assistance “must be undertaken with due regard for the reality” that state regulation will affect “the flow” of Plaintiffs’ core political speech. *Schaumburg*, 444 U.S. at 632.

2. Absentee Application Assistance Is Expressive Conduct.

And beyond involving direct speech, Plaintiffs’ absentee ballot application activities are also expressive conduct. *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 901 F.3d 1235, 1240 (11th Cir. 2018) (citing *Texas v. Johnson*, 491 U.S. 397, 404 (1989)) (noting that constitutional protection for political expression “does not end at the spoken or written word,” but extends with equal force to expressive conduct).

Conduct is sufficiently expressive to fall within the scope of the First Amendment if (1) there was an “intent to convey a particularized message,” and (2) the “surrounding circumstances” would lead a reasonable person to interpret the conduct as conveying “*some* sort of message.” *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1270 (11th Cir. 2004) (emphasis in original). Several contextual factors are relevant to determining whether conduct is likely to be understood as expressive, including: (1) whether the activity accompanies speech; (2) whether the activity will be open to all; (3) whether the activity takes place in a traditional public forum; (4) whether the activity addresses an issue of public concern; and (5) the history of a particular symbol or type of conduct. *See Burns v. Town of Palm Beach*, 999 F.3d 1317, 1344–45 (11th Cir. 2021); *Food Not Bombs*, 901 F.3d at 1242–44.

Plaintiffs’ absentee assistance activities constitute expressive conduct under this standard. Plaintiffs intend to convey the message that voting is important and accessible, and that every eligible voter should exercise their right to vote regardless of senior citizen status, disability, or incarceration when they engage in absentee ballot application assistance. Alabama NAACP Decl. ¶ 6; LWVAL Decl. ¶¶ 7, 10-12, 17; GBM Decl. ¶ 7; ADAP Anderson Decl. ¶ 9. Thus, the first *Holloman* factor is met. 370 F.3d at 1270.

And a reasonable person would interpret Plaintiffs’ absentee assistance activities as conveying some message. Plaintiffs’ absentee assistance is intertwined with direct communication about the importance and accessibility of voting. *See League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 720 (M.D. Tenn. 2019) (“As a matter of simple behavioral fact . . . the collection and submission of the applications gathered in a voter registration drive is intertwined with speech and association.”) (citing *League of Women Voters of Fla. v. Cobb*, 447 F. Supp. 2d 1314, 1334 (S.D. Fla. 2006)) (quotation marks omitted). Plaintiffs also engage in voter assistance and

education events that are open to everyone, and which occur in both traditional public fora and “places ‘historically associated with the exercise of First Amendment rights,’” such as public parks. *Food Not Bombs*, 901 F.3d at 1242 (quoting *Carey v. Brown*, 447 U.S. 455, 460 (1980)); Alabama NAACP Decl. ¶ 11; LWVAL Decl. ¶ 14; GBM Decl. ¶¶ 11, 18. Plaintiffs’ absentee assistance plainly addresses a matter of public concern. *See Raffensperger*, 2023 WL 6296928, at *9 (noting that “discussing the right to vote and urging participation in the political process is a matter of societal concern”). Finally, a reasonable observer would find the long history of voter assistance efforts to counteract voting restrictions (including by Plaintiffs) and the Alabama legislature’s history of attempting to criminalize and outlaw that same voter assistance to be “instructive” in interpreting Plaintiffs’ assistance activities as conveying a pro-voting message. *Food Not Bombs*, 901 F.3d at 1243; *see, e.g.*, Alabama NAACP Decl. ¶ 16; LWVAL Decl. ¶¶ 1, 5; GBM Decl. ¶¶ 22-23; ADAP Anderson Decl. ¶ 2; Doc. 1 ¶¶ 36-46; *see also, e.g.*, *NAACP v. Alabama ex rel. Flowers*, 377 U.S. 288 (1964); *United States v. Atkins*, 323 F.2d 733, 735 (5th Cir. 1963); *Harris v. Siegelman*, 695 F. Supp. 517 (M.D. Ala. 1988).

3. Absentee Ballot Application Assistance is Associational Activity.

Plaintiffs’ absentee application assistance also is protected associational activity. The First Amendment’s broad protection of political expression also encompasses the “right to associate with others in pursuit of” shared political goals. *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). Indeed, “[i]t is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the . . . freedom of speech.” *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958). Accordingly, “state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.” *Id.* at 460–61; *see also NAACP v. Button*, 371 U.S. 415, 428–31, 37 (1963).

As noted, Plaintiffs engage in absentee ballot application assistance to express their mission of ensuring equal access to the right to vote, regardless of race, age, disability, or incarceration status. Plaintiffs also provide this assistance as a means of associating with voters, including those who cannot vote without such assistance, as well as with other civic engagement organizations. Alabama NAACP Decl. ¶ 12; LWVAL Decl. ¶ 19; GBM Decl. ¶¶ 19-20; ADAP Watkins Decl. ¶¶ 9-10. Accordingly, Plaintiffs’ absentee ballot application assistance is protected by the freedom of association. *See VoteAmerica v. Schwab*, 576 F. Supp. 3d 862, 875 (D. Kan. 2021) (“Public endeavors which ‘assist people with voter registration’ . . . and which expend resources ‘to broaden the electorate to include allegedly under-served communities,’ qualify as expressive conduct which implicates the First Amendment freedom of association.”) (citation omitted).

4. SB 1 Restricts the Amount and Effectiveness of Plaintiffs’ Political Speech, Expressive Conduct, and Associational Activity.

The Challenged Provisions unconstitutionally burden political expression because they reduce both the amount and effectiveness of Plaintiffs’ political speech, expressive conduct, and associational activity. In *Meyer*, the Supreme Court held that a law impermissibly restricts political expression where, as under the Payment Provisions here, Plaintiffs are prohibited from using paid staff to communicate their message because such prohibition “has the inevitable effect of reducing the total quantum of speech on a public issue,” such as participation in our country’s democratic process through absentee voting. 486 U.S. at 423.³³

The First Amendment also protects a speaker’s right “to select . . . the most effective means” of expressing their message. *Id.* at 424. The Challenged Provisions prevent Plaintiffs’ most effective means of communicating that voters can and should exercise their right to vote, including

³³ The Gift Provisions further may prohibit Plaintiffs from even lessening the burden of volunteering at long events by providing volunteers at long events with food and water.

by voting absentee, and assisting them to do so. There is no other way for Plaintiffs to meaningfully assist voters with their applications. Among these, the Payment, Prefilling, and Submission Restrictions impede Plaintiffs from engaging in speech designed to encourage senior, disabled, or incarcerated people to vote by helping them to fill out and submit their absentee ballot applications. *See Meyer*, 486 U.S. at 424 (explaining that “direct one-on-one communication” is “the most effective, fundamental, and perhaps economical avenue of political discourse”). SB 1 also serves to undermine Plaintiffs’ message that every eligible person should vote, and that voting should be accessible to all eligible voters. Likewise, the Gift Provisions impede Plaintiffs, *inter alia*, from providing stamps and envelopes to be provided to voters who may need them. The Challenged Provisions also restrict Plaintiffs from associating with voters and with one another to provide one-on-one assistance with absentee ballot applications. Thus, by prohibiting absentee assistance, the Challenged Provisions severely restrict the quantum and chosen method of Plaintiffs’ speech and association.

5. Defendants Cannot Meet Their Burden to Establish That SB 1 Serves a Compelling and Narrowly Tailored Government Interest.

State laws like SB 1 burdening the freedoms of speech and association are subject to strict scrutiny. *See Weaver v. Bonner*, 309 F.3d 1312, 1319 (11th Cir. 2002) (“The proper test to be applied to determine the constitutionality of restrictions on ‘core political speech’ is strict scrutiny.”). Strict scrutiny applies to election-related laws that, as here, directly regulate protected speech and associational activity. *See, e.g., McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 344–47 (1995). “When a State’s election law directly regulates core political speech, we have always subjected the challenged restriction to strict scrutiny and required that the legislation be narrowly tailored to serve a compelling governmental interest.” *Buckley v. Am. Const. L. Found.*,

Inc., 525 U.S. 182, 207 (1999) (Thomas, J., concurring).³⁴ Under strict scrutiny, Defendants bear the burden of establishing that SB 1 is necessary to serve a compelling and narrowly tailored government interest. *See Buckley*, 525 U.S. at 207. This is a “well-nigh insurmountable” burden. *Meyer*, 486 U.S. at 425.

Here, Defendants cannot satisfy strict scrutiny, or indeed any level of scrutiny, to justify SB 1’s intrusion on constitutional rights. Defendants bear the burden of proving, through evidence “that the recited harms are real, not merely conjectural, and that the regulation [of speech] will in fact alleviate these harms in a direct and material way.” *Turner Broadcasting Sys., Inc. v. F.C.C.*, 512 U.S. 622, 664 (1994). Fatally, there is no interest—let alone a compelling interest—served by SB 1. The sole purported interest for SB 1 was to target so-called “ballot harvesting” (*i.e.*, the collection of absentee ballots) by “groups or individuals seek[ing] to profit off of the absentee voting process.”³⁵ But SB 1 does not regulate the collection of absentee ballots. It only regulates assistance with *applications* to vote absentee and has no provisions about absentee ballots themselves. Moreover, during SB 1’s consideration and passage, there was no evidence at all as to why preventing absentee ballot collection is a compelling state interest or how any such interest is served by SB 1.³⁶ There is simply no nexus—let alone a compelling and narrowly tailored one—between *any* purported governmental interest and the conduct that SB 1 regulates.

Defendants also fail to meet their burden to show that the Challenged Restrictions are narrowly tailored. There are far less restrictive means to achieve any interest regarding “ballot

³⁴ Even if the Court determines that Plaintiffs’ absentee ballot application assistance is expressive conduct rather than speech, strict scrutiny still applies to the Challenged Provisions. Content-based restrictions on expressive conduct receive strict scrutiny. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992). The Challenged Provisions are content-based because they apply only to expressive conduct related to a particular topic: absentee ballot applications. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015) (“Government regulation of speech is content based if a law applies to particular speech because of the topic discussed.”).

³⁵ Jacob Holmes, *Legislature passes bill criminalizing “ballot harvesting”*, Ala. Political Reporter (Mar. 8, 2024), <https://www.alreporter.com/2024/03/08/legislature-passes-bill-criminalizing-ballot-harvesting/>.

³⁶ *See* Exs. A & B to Bishop Decl.

harvesting.” Except in rare circumstances, Alabama prohibits anyone other than a voter from collecting and returning absentee ballots.³⁷ Additionally, Alabama has long criminalized conduct such as vote buying, voter intimidation, and voter bribery.³⁸ Furthermore, as next discussed, the Challenged Provisions are also unconstitutionally vague and overbroad—thus by definition, not narrowly tailored.

B. SB 1 is Unconstitutionally Vague.

The Challenged Provisions also are void-for-vagueness in violation of the First and Fourteenth Amendments. “Vague laws contravene the first essential of due process” that individuals must be afforded “fair notice of what the law demands of them.” *United States v. Davis*, 139 S. Ct. 2319, 2326 (2019) (quotation marks omitted). Here, in the First Amendment context, vague laws raise especial concern because they “force potential speakers to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked, thus silencing more speech [and expression] than intended.” *Wollschlaeger*, 848 F.3d at 1320 (cleaned up). Accordingly, “standards of permissible statutory vagueness” impacting First Amendment freedoms “are strict.” *NAACP v. Button*, 371 U.S. 415, 432–33 (1963).

A law “can be impermissibly vague for either of two independent reasons.” *Wollschlaeger*, 848 F.3d at 1319–20. *First*, “if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits.” *Id.* *Second*, “if it authorizes or even encourages arbitrary and discriminatory enforcement.” *Id.* Both conditions are plainly met here.

1. SB 1 Fails to Provide Ordinary People Reasonable Notice of What it Prohibits.

First, the Challenged Provisions are impermissibly vague because they lend themselves to varying interpretations and thus give no fair warning as to what they proscribe. Under SB 1, each

³⁷ See Ala. Code § 17-11-9.

³⁸ See *Id.* §§ 17-17-33, 38, 39.

of the terms “payment,” “gift,” “third-party,” “pre-fill,” “distribute,” and “submit” are triggers for serious criminal liability but their scope is left ambiguous.

In particular, the Payment Provisions do not define what constitutes a “payment” thereunder. It is unclear, for example, whether it is limited to monetary payments specifically for the assistance of a voter with their absentee application, or whether an employee’s general salary, reimbursement for general expenses, or even a non-monetary token would be implicated. Alabama NAACP Decl. ¶ 18; GBM Decl. ¶ 29. “Payment” could even be read to cover funding that the federal government gives Plaintiff ADAP to assist disabled and blind voters with their absentee applications, ADAP Anderson Decl. ¶¶ 11-12; ADAP Watkins Decl. ¶ 14, and salaries paid by the State of Alabama to jail and prison employees who might similarly help eligible incarcerated voters, GBM Decl. ¶ 27. Absurdly then, agencies of the federal or state government could be held liable for paying people who assist voters to apply absentee.

The Gift Provisions similarly fail to provide any (let alone reasonable) notice about what they prohibit. Plaintiffs and others are left to wonder whether *even providing the very materials required to apply to vote absentee* (e.g., a postage stamp, envelope, printing supplies, or a printed unfilled application) are considered “gifts.” Moreover, it is unclear whether the term “gift” could be construed as encompassing Plaintiffs’ provision of items like t-shirts, pens, or gas cards to volunteers, regardless of whether their provision is expressly connected to absentee ballot application assistance. Alabama NAACP Decl. ¶ 18; GBM Decl. ¶ 27.

SB 1 also does not define the term “third party,” which purports to identify who would be regulated by the Payment and Gift Provisions. As a result, individuals who are conducting necessary (and even mandatory) voter assistance activities are possibly liable under these provisions. This includes potential Class C felony liability for any potential “third parties” in the

absentee application process such as staff in jails, prisons, and residential care facilities, as well as employees or volunteers of organizations like Plaintiffs, who otherwise cannot obtain and/or return an absentee ballot application and will thus be denied the right to vote. ADAP Watkins Decl. ¶ 11. And similarly, due to this vagueness, the law also imposes potential Class B felony liability for employers (like Plaintiffs and governmental entities) who employ such “third parties” to engage in this assistance as part of their job duties. *Id.*

Next, SB 1 amorphously prohibits “prefill[ing]” an absentee application, triggering a Class A misdemeanor under the Prefilling Provision (even without any “payment” or “gift” for such conduct), or a Class B or C felony under the Payment or Gift Provisions. There is no temporal or other guidance as to what constitutes “prefilling,” meaning that any assistance in completing an absentee application could be deemed criminal under SB 1. Alabama NAACP Decl. ¶ 19; ADAP Watkins Decl. ¶ 11. This term is especially vague given that SB 1 elsewhere conflictingly states that “[a]ny applicant may receive assistance in filling out the application as he or she desires”—suggesting that while an applicant may receive assistance without fear of criminal sanction, any person providing it could be subject to criminal penalties. And because “prefilling” is criminalized under the Prefilling Provision independent of the Payment or Gift Provisions, an even broader net of would-be assistors (including family and neighbors who are not paid staff or volunteers) face potential liability.

SB 1 also makes it a crime to “distribut[e]” another voter’s absentee application under the Prefilling Restriction and Payment or Gift Provisions. But the scope of the term “distribute” is wholly unclear in both places. For example, under the Prefilling Restriction, it is unclear whether a person could be prosecuted even where a voter requests an application from Plaintiffs, accurately provides Plaintiffs with the required information, and Plaintiffs merely fill in that information on

the application before “distributing” or handing it to the voter. Under the Payment or Gift Provisions, it is unclear whether Plaintiffs’ paid staff and volunteers can even provide blank applications to disabled or incarcerated voters who have no way to print the form for themselves or if doing so itself runs afoul of the ban on “distribut[ing].” ADAP Watkins Decl. ¶ 11.

The Submission Restriction also is impermissibly vague. Although the Submission Restriction identifies how a voter may “submit” their absentee application (*i.e.*, in person or by mail/commercial carrier), it provides no notice about whether a voter may consent to a third party delivering their application on their behalf—including in situations where senior citizen, disabled, blind, or incarcerated voters would otherwise have no way to return their application. Alabama NAACP Decl. ¶ 21; GBM Decl. ¶ 22; ADAP Watkins Decl. ¶ 11. And because the Submission Restriction applies to any assistor regardless of any “payment” or “gift,” it means that even a grandchild who walks their grandparent’s application to the mailbox could face criminal liability for doing so.

* * *

Rife with ambiguity, SB 1 will force Plaintiffs and others to steer “far wide of the unlawful zone” for fear of engaging in speech and expressive activities that could risk criminal prosecution. In the First Amendment context, the “government may regulate . . . only with narrow specificity.” *Button*, 371 U.S. at 433. It fails to do so and the Challenged Provisions must be enjoined for this reason alone.

2. The Challenged Provisions Authorize and Encourage Arbitrary Enforcement.

The Challenged Provisions also must be enjoined because their ambiguity authorizes and encourages arbitrary enforcement. *See Kolender v. Lawson*, 461 U.S. 352, 358 (1983) (“Where the legislature fails to provide” law enforcement with “such minimal guidelines,” this “may permit a

standardless sweep that allows policemen, prosecutors, and juries to pursue their personal predilections.”) (cleaned up and internal quotations omitted).

Indeed, during the legislative process, bill sponsor Senator Gudger testified that the provision of a “stamp [or] sticker” could be considered an impermissible “gift” under the statute.³⁹ He also acknowledged that SB 1 raised concerns about criminalizing “the grandfather giving the grandson \$5 for gas money.”⁴⁰ His testimony underscores that SB 1 is drafted so as to invite arbitrary enforcement. SB 1 also was touted by Senator Gudger as responding to higher rates of absentee voting in certain Black Belt counties during the 2022 primary election,⁴¹ though he offered no cogent argument suggesting there was any wrongdoing connected with the higher usage rate of absentee ballots in those counties.⁴² This presents serious risk that enforcement under SB 1 could be selectively focused on such areas (and on Plaintiffs and others who assist voters in these parts of the state). Given this legislative history, and the extensive ambiguity of the statute, the danger that the Challenged Provisions will be selectively enforced is substantial.

Without fair notice of what SB 1 proscribes, Plaintiffs and others who would provide voting assistance are forced to choose between either “silence and self-censorship” or “proceed[ing] with their speech and potentially fac[ing] punishment according to [] arbitrary whims.” *Wollschlaeger*, 848 F.3d at 1323. This cannot be countenanced, particularly not given the First Amendment freedoms at stake.

³⁹ Ex. A to Bishop Decl. at 33:17-20.

⁴⁰ *Id.* at 28:7-9.

⁴¹ *See* Ex. A to Bishop Decl. at 28:11-29:12; John Sharpe, AL.com, “Absentee ‘ballot harvesting’ bill advances in House amid questions about proof” (Feb. 28, 2024), <https://www.al.com/news/2024/02/absentee-ballot-harvesting-bill-advances-in-house-amid-questions-about-proof.html>.

⁴² *See id.*

C. SB 1 is Unconstitutionally Overbroad.

The Challenged Provisions also must be struck down as unconstitutionally overbroad. Laws restricting First Amendment freedoms “may be invalidated as overbroad if a substantial number of its applications are unconstitutional, judged in relation to the statute’s plainly legitimate sweep.” *United States v. Stevens*, 559 U.S. 460, 473 (2010) (quotations omitted); see *FF Cosmetics FL, Inc. v. City of Miami Beach*, 866 F.3d 1290, 1304 (11th Cir. 2017) (citation omitted).

SB 1 regulates a sweeping amount of non-commercial political speech and constitutionally protected expressive conduct, see *supra* Argument Section II.A, and lacks any reasonable bounds in doing so. As discussed, SB 1 supposedly targets “ballot harvesting” yet it relates only to absentee applications and does not advance any governmental interest in regulating absentee ballots. Further, the Payment or Gift Provisions so broadly criminalize voter assistance that it appears to sweep in even those employees and volunteers who help disabled, blind, and low literacy voters entitled to such assistance under Section 208 of the VRA or incarcerated voters who cannot vote without such assistance. Further confirming their overbreadth, the Payment Provisions also apparently prohibit governmental employees such as elections or prison officials from helping voters obtain, complete, and submit their absentee applications as part of their jobs. Indeed, even employees or volunteers of political campaigns could be liable under these provisions—flatly inconsistent with the Supreme Court’s repeated admonition that the First Amendment “has its fullest and most urgent application precisely to the conduct of campaigns for political office.” *Fed. Election Commission v. Cruz*, 596 U.S. 289 (2022) (quotation marks and citation omitted).

The Prefilling and Submission Restrictions are similarly untethered to any legitimate purpose: under these restrictions, anyone (even a family member helping another family member, or someone helping a voter entitled to such help under Section 208) might be charged with a misdemeanor for writing the voter’s name on their application or placing their completed

application in the mailbox. Moreover, the Prefilling Restriction also appears to apply even where there could be no conceivable concern because the application is requested by a voter, the voter provides their assistor the information to include on the form, and that information is accurate. This expansive reach blatantly exceeds any legitimate sweep and violates the First Amendment.

III. Plaintiffs Are Substantially Likely to Succeed on the Merits of Their Claim Under Section 208 of the Voting Rights Act

Section 208 of the VRA provides: “Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice,” except for “the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508; *see Arkansas United v. Thurston*, 626 F. Supp. 3d 1064, 1085 (W.D. Ark. 2022) (“With the exception of the voter’s employer or union representative, Congress wrote § 208 to allow voters to choose any assistor they want.”).

Section 208 “plainly contemplates more than the mechanical act of filling out the ballot sheet” and “includes steps in the voting process before entering the ballot box.” *OCA-Greater Houston v. Texas*, 867 F.3d 604, 615 (2017). Section 208’s broad protections extend to the absentee application process. *See* 52 U.S.C. § 10310(c)(1) (defining “vote” and “voting” under the VRA to encompass “all action necessary to make a vote effective . . . , including, but not limited to, . . . action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly.”).

Congress enacted Section 208 specifically to address the “significant effect” that limiting assistance has on those “groups of citizens [who] are unable to exercise their rights to vote without obtaining assistance in voting” and “avoid denial or infringement on their right to vote.” S. Rep. No. 97-417, 62 (1982). As explained, disabled, blind, and low literacy voters are especially likely to need to vote absentee and require assistance with the absentee voting applications.

The Challenged Provisions of SB 1 violate Section 208 by infringing on the universe of lawful assistors provided by Section 208 and as a result, obstructing Congress’s purposes and goals in ensuring equal access for disabled, blind, and low literacy voters. And because SB 1 conflicts with Section 208, SB 1 is preempted.

A. SB 1 Infringes on Federally Protected Assistance to Disabled, Blind, and Low Literacy Voters.

Restrictions that preclude or limit assistors violate Section 208. *See Arkansas United*, 626 F. Supp. 3d at 1085 (finding Section 208 preempted state law prohibiting assistors from helping more than six voters). In enacting Section 208, “Congress contemplated the vulnerability of [certain] voters when it discussed providing unrestricted choice of assist[ors] and provided two explicitly excluded groups. States are not permitted to limit the right to assistance further.” *Disability Rights N.C. v. N.C. State Bd. of Elections*, No. 21 Civ. 361, 2022 WL 2678884, at *5 (E.D.N.C. July 11, 2022).

Here, by imposing criminal penalties on both assistors and voters, SB 1 violates Section 208 because it impermissibly narrows the right of disabled, blind, and low literacy voters to receive assistance from a person of their choosing. Because SB 1 “provides that there **shall** be a criminal outcome for violations [by assistors]; [the danger of prosecution] is not speculative or imaginary in nature.” *Disability Rights Miss. v. Fitch*, No. 23 Civ. 350, 2023 WL 4748788, at *3 (S.D. Miss. July 25, 2023) (emphasis in original). Rather, “the contents of the statute promise to chill the enthusiasm of those affected.” *Id.* Among other things, SB 1’s Payment or Gift Provisions criminalize any person who “receive[s] a payment or gift” for assisting a voter (a Class C felony) and appears to exclude such assistors like Plaintiffs from giving assistance to voters entitled to it under Section 208. These provisions also criminalize those paying or giving gifts to assistors (a Class B felony)—with no distinction for Section 208-eligible voters who might offer payment or

gift in exchange for the assistance, like a small token of appreciation. The Prefilling and Submission Restrictions likewise criminalize application assistance such as writing a voter's name on their form or placing the voter's form in the mail for them—even assistance for Section 208-eligible voters who are physically unable to carry out these essential steps in applying to vote absentee. This clearly violates the protections enshrined in Section 208.

To be clear, that SB 1 recites Section 208's language in § 17-11-4(e) does not cure this violation. Like Section 208, SB 1 Section 17-11-4(e) states: "Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice," except for "the voter's employer or agent of that employer or officer or agent of the voter's union." But at the same time, SB 1 contains the Challenged Provisions criminalizing broad categories of assistance—with no distinction, as discussed, for situations where assistance is being given pursuant to § 17-11-4(e) (or Section 208). *Cf. OCA-Greater Houston*, 867 F.3d at 615 ("[A] state cannot restrict this federally guaranteed right [under Section 208] by enacting a statute tracking its language, then defining terms more restrictively than as federally defined."). SB 1 also does not define "vote" or "voting" as broadly as the VRA—it does not define those terms at all—further compounding the ambiguity as to what conduct is permitted. Therefore, it appears that a voter or assistor engaging in Section 208-protected conduct could still face liability under the Challenged Provisions.

SB 1's separate, differently worded provision protecting military and overseas voters confirms the failure of SB 1 to protect Section 208 assistance. Directly below Section 17-11-4(e) and in the same section as the Challenged Provisions, Section 17-11-4(f) provides: "Voters voting by absentee ballot through the Uniformed and Overseas Citizens Absentee Voting Act **are not subject to this section**" (emphasis added). Section 17-11-4(f) makes plain that the Legislature

understood how to exempt other federally protected voters fully and without ambiguity from the Challenged Provisions. By contrast, Section 17-11-4(e) pointedly does not contain similar language stating that conduct thereunder is “not subject to this section” (*i.e.*, not subject to the Challenged Provisions). That the Legislature did not include this “not subject to” language for Section 208 voters or assistors underscores this violation of federal law.

B. Because SB 1 Conflicts with Section 208, It Is Preempted.

The Supremacy Clause of the United States Constitution “invalidates state laws that interfere with or are contrary to federal law.” *Hillsborough Cty., v. Automated Med. Lab., Inc.*, 471 U.S. 707, 712 (1985) (internal quotation omitted). A state law conflicts with a federal law when it “stands as an obstacle to the accomplishment and execution” of Congress’s “full purposes and objectives.” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

As set forth above, SB 1 violates Section 208 because it infringes on the right of voters who are blind, disabled, and low literacy to voting assistance from an assistor of their choice. Further, because of its restrictions on these voters, SB 1 would criminalize conduct expressly protected and authorized under the VRA. SB 1 thus creates an impermissible barrier to accomplishing the full purposes and goals of Congress under the statute. Accordingly, SB 1 is constitutionally preempted by Section 208.

IV. Plaintiff ADAP Is Substantially Likely to Succeed on the Merits of Its HAVA Claim.

Plaintiff ADAP is also substantially likely to succeed on the merits of its claim that SB 1 is preempted by HAVA,⁴³ a federal law which provides ADAP with funding to undertake absentee application assistance that is now apparently criminalized by SB 1.

In enacting HAVA, Congress created a grant called “Protection and Advocacy for Voting

⁴³ HAVA is codified at 52 U.S.C. §§ 20901 to 21145.

Assistance” (“PAVA”). The PAVA program is an integrated system of federal P&A grants to states to support legal advocacy services to protect the legal and human rights of individuals with disabilities and gives state P&As broad rights in carrying out their work.⁴⁴ Under PAVA, the federal government is required “to pay the protection and advocacy [(“P&A”)]⁴⁵ system of each State to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places.” 52 U.S.C. § 21061(a). ADAP is the designated Alabama P&A for all the federal P&A grant programs, including PAVA. ADAP Anderson Decl. ¶ 2.

ADAP has a full-time employee whose primary duties focus on implementing the agency’s PAVA grant mandate: ensuring the “full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places.” 52 U.S.C. § 21061(a); ADAP Anderson Decl. ¶ 7. This requires the employee to work with and assist voters with disabilities, including with absentee voting, and to provide education to other organizations or persons on what and how someone can assist a person with a disability to vote. ADAP Watkins Decl. ¶ 3. This employee provides direct assistance to voters in filling out their absentee ballot applications. *Id.* ¶ 5.

Under SB 1, however, ADAP’s required work under the PAVA grant subjects the organization and its employees to potential criminal liability. Specifically, the Payment Provisions specifically prohibit and make it a Class B felony for someone to “receive a payment” to assist a

⁴⁴ Protection and Advocacy for Persons with Developmental Disabilities (“PADD”) program, 42 U.S.C. §§ 15041-15045; Protection and Advocacy for Individuals with Mental Illness Act (“PAIMI”), 42 U.S.C. § 10801-10851; the Protection and Advocacy for Individual Rights Program of the Rehabilitation Act, (“PAIR”) 29 U.S.C. § 794e; Protection and Advocacy for Assistive Technology (“PAAT”), 29 U.S.C. §§ 3001-3058; Protection and Advocacy for Beneficiaries of Social Security (“PABSS”), 42 U.S.C. §§ 1320b-21; Protection and Advocacy for Individuals with Traumatic Brain Injury (“PATBI”), 42 U.S.C §§ 300d-53; Protection and Advocacy for Voting Access (“PAVA”), 52 U.S.C. §§ 21061-21062; the Client Assistance Program (“CAP”), Public Law 113-128; Protection and Advocacy for Beneficiaries with Representative Payees (“PABRP”), Public Law 115 – 165.

⁴⁵ As defined in 42 U.S.C. § 15002.

voter, including a voter with a disability. As explained, SB 1’s recitation of Section 208’s text does not shield assistors from liability, even where the assistor is required by federal law to provide that assistance, as ADAP is here. SB 1 thus apparently criminalizes and prohibits conduct explicitly authorized under HAVA as applied to ADAP. Indeed, the federal government may run afoul of the Payment Provisions by following federal law in allocating funds under PAVA.

As discussed, where a state law “stands as an obstacle to the accomplishment and execution” of Congress’s “full purposes and objectives,” it is preempted under the Supremacy Clause. *Hines*, 312 U.S. at 67. SB 1 makes it impossible for ADAP to fulfill its duties or congressional mandate under PAVA to ensure the “the full participation of persons with disabilities in the voting process.” 52 U.S.C. § 21061(a). SB 1’s prohibitions are thus preempted by HAVA.

V. Plaintiffs Will Suffer Irreparable Harm Absent Preliminary Relief.

Absent a preliminary injunction, Plaintiffs will suffer irreparable injuries with respect to the November 2024 general election and beyond. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 11 F.4th 1266, 1286 (11th Cir. 2021) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). SB 1 threatens to penalize Plaintiffs’ speech and conduct, causing Plaintiffs to dramatically reduce and fundamentally alter their communications to Alabama voters. This “direct penalization” of First Amendment rights is “per se irreparable.” *Otto v. City of Boca Raton, Fla.*, 981 F.3d 854, 870 (11th Cir. 2020).

Moreover, SB 1 severely burdens, if not entirely forecloses, the right to vote for Plaintiffs’ members and constituents and many other Alabamians—including senior, disabled, blind, low literacy, and incarcerated voters who depend on absentee voting but cannot vote absentee without assistance with their applications. “[M]issing the opportunity to vote [amounts to] an irreparable [injury].” *Gonzalez v. Governor of Ga.*, 978 F.3d 1266, 1272 (11th Cir. 2020). “[O]nce the election

occurs, there can be no do-over and no redress. The injury to these voters is real and completely irreparable if nothing is done to enjoin th[ese] law[s].” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014).

Irreparable harm also exists where, as here, voting can become so burdensome for citizens with disabilities or low literacy skills that “they may be dissuaded from attempting to vote at all.” *Westchester Disabled on the Move, Inc. v. Cnty. of Westchester*, 346 F. Supp. 2d 473, 477-78 (S.D.N.Y. 2004); *cf. also Gaston County v. United States*, 395 U.S. 285, 295 (1969) (accepting that some low literacy voters may “not attempt to register, knowing that they could not meet the [state’s strict] standard”); S. Rep. 97-417, at *62 (noting that some Section 208 voters faced with casting their vote under “adverse circumstances” will “in fact elect to forfeit their right to vote”). Beyond the risk of complete disenfranchisement, blind, disabled, or low literacy voters face irreparable harm even if they ultimately find a way to vote but experience additional burdens to doing so. *Cf. Westchester Disabled on the Move*, 346 F. Supp. 2d at 477-78 (explaining that denying disabled voters access to in person voting creates irreparable injury even if they are still ultimately able to vote another way).

Further, Plaintiffs who would usually assist voters will lose opportunities to do so under SB 1. Those missed opportunities to help voters constitute irreparable harm not only because unassisted voters may not be able to vote at all but also because those opportunities for voter engagement will have been lost forever. The potential fear of prosecution under SB 1 also constitutes irreparable harm for all Plaintiffs. *See Ga. Latino All. for Human Rights v. Governor of Ga.*, 691 F.3d 1250, 1269 (11th Cir. 2012). SB 1 additionally frustrates Plaintiffs’ missions by diverting resources. Thus, Plaintiffs unequivocally face irreparable harm if SB 1 is not enjoined.

VI. The Balance of the Equities Weighs in Plaintiffs' Favor and a Preliminary Injunction Serves the Public Interest.

The ongoing injury to Plaintiffs far outweighs any interest that the Defendants may have in enforcing SB 1, and the public will be best served by an injunction. Plaintiffs are suffering grave violations of their constitutional and statutory rights. The State has no interest in defending provisions that violate federal law. *See United States v. Alabama*, 691 F.3d 1269, 1301 (11th Cir. 2012) (“Frustration of federal statutes and prerogatives are not in the public interest.”); *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006) (holding that neither city nor public had any interest in “enforcing an unconstitutional ordinance”). And since Defendant Allen has stated that SB 1 will first be enforced for the November 2024 general election, an injunction now is in the public interest as it preserves the status quo.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that their Motion for Preliminary Injunction be granted.

DATED: May 2, 2024

Respectfully submitted,

/s/ Alison Mollman

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed a copy of the foregoing and accompanying documents with the Clerk of Court using the CM/ECF system which provides electronic notice of filing to all counsel of record.

DATED: May 2, 2024

/s/ Laurel Hattix

Laurel Hattix

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Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

ALABAMA STATE
CONFERENCE OF THE
NAACP; LEAGUE OF WOMEN
VOTERS OF ALABAMA;
LEAGUE OF WOMEN VOTERS
OF ALABAMA EDUCATION
FUND; GREATER
BIRMINGHAM MINISTRIES;
and ALABAMA DISABILITIES
ADVOCACY PROGRAM,

Plaintiff,

v.

STEVE MARSHALL in his
official capacity as Alabama
Attorney General, WES
ALLEN in his official capacity
as Alabama Secretary of State,

Defendants.

Case No. 2:24-cv-00420-RDP

DECLARATION OF LAUREN BISHOP

Pursuant to 28 U.S.C. § 1746, I, LAUREN BISHOP, declare as follows:

1. I am a transcriber employed by Planet Depos. I am over the age of 18 and competent to testify as to the matters set forth in this affidavit based upon my own personal knowledge. This declaration is submitted to verify the contents of the attached transcripts.

2. On March 4, 2024, I accessed the video footage of the February 28, 2024 meeting of the Alabama House Constitution, Campaigns and Elections Committee from The Alabama Channel website, at <https://alabamachannel.ompnetwork.org/embed/sessions/285921/alabama-house-constitution-campaigns-and-elections-committee>. A true and correct transcript of this meeting is attached as Exhibit A to this declaration.

3. On April 25, 2024, I accessed the video footage of the February 7, 2024 meeting of the Alabama Senate State Government Affairs Committee from The Alabama Channel website, at <https://alabamachannel.ompnetwork.org/embed/sessions/284244/alabama-senate-state-government-affairs-committee>. A true and correct transcript of this meeting is attached as Exhibit B to this declaration.

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 26th day of April, 2024, in Wexford, Pennsylvania.



LAUREN BISHOP

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF SCOTT DOUGLAS IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Scott Douglas, declare as follows:

1. I am the Executive Director of Greater Birmingham Ministries (“GBM”). I have served in this role since February 1993.
2. GBM is a nonpartisan, 501(c)(3) nonprofit organization founded in 1969 in response to the challenges posed by the mid-twentieth century Civil Rights movement and its transformative impact in Birmingham, Alabama, and across the United States.
3. As recently as the March 2024 presidential preference primary election, GBM effectively communicated its pro-voting message by assisting voters to apply for absentee ballot applications and ballots, including assisting eligible incarcerated voters in applying for absentee ballots.

4. In 2024 and in the future, GBM would like to continue to engage in its absentee ballot application communication with and assistance on behalf of the communities it serves in the Greater Birmingham area and across Alabama.

GBM's Mission and Viewpoints

5. GBM is a multi-faith, multi-racial, non-profit membership organization that provides emergency services to people in need and engages people to build a strong, supportive, and engaged community and to build a more just society for all people. Though GBM primarily works in Birmingham and Jefferson County, it seeks to address urgent human rights and social justice needs across Alabama. Also central to GBM's mission is increasing civic participation among historically disenfranchised communities.

6. To promote civic engagement and encourage voting in the communities it serves, GBM engages in voter education and assistance, including discussing civics with incarcerated individuals and assisting Alabamians to register to vote, restore their voting rights, and encourage them to vote, including by absentee ballot.

7. GBM engages in voter assistance to express a clear message: voting is a person's fundamental right and is the key to advancing civil and human rights in Alabama. GBM considers its voter assistance critical to effectively expressing its message that voting is a means of creating political power among historically disenfranchised communities in Alabama. GBM sees its voter assistance as contributing to Alabama's movement for civil and human rights in a state that has long oppressed communities of color. GBM also sees its voter assistance as conveying the message that voting should be equally accessible to eligible incarcerated voters.

GBM's Absentee Ballot Application Activities

8. As part of its voter assistance activities, GBM's paid staff and volunteers

communicate with and assist senior citizens, people with disabilities, shift workers, formerly incarcerated people, and eligible incarcerated voters apply for absentee ballots.

9. GBM has seven paid staff members and three current vacancies in staff positions. GBM has approximately 2,780 members who make a financial contribution to the organization. GBM also has over 100 volunteers who assist GBM in its different program areas. GBM's Board of Directors is primarily comprised of representatives of Alabama's faith communities.

10. GBM staff and volunteers primarily work in the Birmingham area, but they also communicate with and assist hopeful voters across the state, often working in Wetumpka, Tuscaloosa, St. Clair, and Springville. GBM utilizes both paid staff and volunteers to communicate its pro-voting message and assist individuals in applying for absentee ballots. Such individuals include senior citizens, people with disabilities, and current and formerly incarcerated people.

11. GBM also conducts voter registration and voter education events on sidewalks, streets, pop-up voting events, and at other public events. GBM may organize these events on its own or table at an event organized by other civic organizations in Alabama. During election season, GBM may hold pop-up events several times a week. During these events, GBM will encourage eligible voters to vote by absentee ballot and provide absentee ballot application assistance to voters who request assistance. As part of their encouragement and assistance, GBM staff and volunteers will ensure that the voter is (1) *eligible* to vote absentee and (2) *able* to apply for an absentee ballot. GBM ensures that a person is able to apply for an absentee ballot by providing that voter with a copy of the application, pen, envelope, and stamp to ensure that the person can fill out the application and send it to their county's Absentee Election Manager. For example, GBM held a community event to educate people on absentee voting in 2020, encourage eligible individuals to vote by absentee ballot, and to assist attendees with absentee ballot applications.

This event was open to the public and allowed GBM to spread its message about the importance of voting and voting absentee.

12. GBM will inform the individual about absentee voting in Alabama, print the absentee ballot application for the individual, provide a pen to assist the individual in filling out the form, provide an envelope for voters to mail the application, and provide postage for the voter to send the application. GBM staff and volunteers spend time reviewing the application to ensure that all required boxes are marked correctly and completely. GBM pays for the envelope, pens, and postage that it provides to individuals that it assists in applying for absentee ballots, as well as the paper and printer for printing the applications.

13. GBM hands out snacks, branded pens, and sometimes t-shirts when its staff and volunteers encourage and assist voters in applying for absentee ballots. GBM provides its volunteers with pens, paper, t-shirts, gas stipends, and food when they participate in voter registration and civic education drives. GBM pays for all of the supplies that it gives its volunteers when those volunteers assist individuals in applying for absentee ballots.

14. Senior citizens, people with disabilities, and others in need come to GBM for food, financial assistance, and clothing assistance. GBM conducts a free clothing distribution twice per week and organizes food distribution twice per month to assist those in need in the Greater Birmingham area. GBM also provides financial assistance once a month, which sometimes leads to questions about voting. GBM will discuss and encourage absentee voting in Alabama—including by providing absentee ballot application assistance to eligible people—when they come to GBM for these other resources.

15. GBM also provides free materials acquired through donations that are needed by these individuals for their health and well-being, including medical devices such as oxygen

machines and other items such as walkers, wheelchairs, and compression socks. GBM also provides referrals to other organizations for other necessary sources. During these interactions, GBM has discussed and encouraged voting by absentee ballot with individuals and assisted these individuals with absentee ballot applications, which they require because of health and/or mobility issues.

16. GBM specifically works to reach voters across the state who have past felony convictions to register them to vote, if eligible, or to assist them in restoring their voting rights. Once a person with a past felony conviction is registered to vote, GBM will inform them about absentee voting in Alabama and assist that person in applying for an absentee ballot, if they request that assistance. Assisting these voters is a critical part of GBM's work to encourage voting among every eligible individual; in GBM's experience, many people mistakenly believe that any felony conviction is a bar to voting, contrary to Alabama law.

17. GBM holds voter registration events around the state where they also discuss absentee voting and assist with absentee ballot applications on behalf of formerly incarcerated individuals. These events include second chance job fairs, expungement clinics, drug court, and tabling on sidewalks outside of ABPP field offices. At these events, GBM provides absentee ballot applications, as well as other provisions to help assist individuals with filling out those applications, including a pen, envelope, and postage. At these events, GBM volunteers often wear GBM-branded t-shirts that we provide to volunteers.

18. GBM also works with students from the University of Alabama on a program called Return My Vote ("RMV") to help register and assist voters with prior felony convictions in applying for absentee ballots. Together, GBM and RMV encourage voting and distribute voter registration applications, absentee ballot applications, and Certification of Eligibility to Register

to Vote (“CERV”) applications. GBM and RMV then help individuals fill out these applications and provide postage. GBM also has a hotline where people make calls to inquire about voter assistance and eligibility.

19. GBM regularly does this re-entry voting work in partnership with other civic organizations, including the League of Women Voters of Alabama, Faith in Action Alabama, the NAACP, and others. These partnerships are one way that GBM associates with other organizations in order to amplify shared values of promoting equal participation in democracy and share their pro-voting message.

20. GBM encourages voting and provides assistance to eligible individuals incarcerated in Julia Tutwiler Prison for Women (“Tutwiler”) and St. Clair Correctional Facility (“St. Clair”), as well as Birmingham County and City Jails. GBM assists those incarcerated individuals in voter registration, voting rights restoration, and absentee ballot application assistance. GBM visits Tutwiler once or twice per month to encourage democratic participation and distribute absentee ballot applications and CERV applications. GBM successfully assisted 10 women in submitting applications for absentee ballots for the March 2024 presidential primary election.

21. GBM seeks to expand its prison voting work across Alabama in 2024 and beyond, fostering relationships in other prisons and expanding its voter education and assistance programs in Tutwiler and St. Clair. For example, GBM participated in a job fair at the Bibb Correctional Facility job fair on April 25, 2024. GBM provided information about voter restoration and registration, but could not discuss absentee options because of SB 1.

22. Without our encouragement and assistance, many voters would be unable to apply for absentee ballots. In particular, we are often the primary people that incarcerated voters have

assisting them with their absentee ballot applications. Because incarcerated voters are *only* able to vote by absentee ballot (Alabama does not provide jail- or prison-based voting sites), such voters have considered our absentee ballot application assistance a lifeline to exercising their right to vote. Likewise, many voters with disabilities cannot vote without someone assisting them in filling out and submitting the application. Many voters with disabilities who come to GBM for full-service assistance also choose to have GBM assist them with their absentee ballot applications. Now in its 55th year, GBM is well-known and greatly respected by Alabamians for its voting work, and seek us out for our assistance.

23. GBM performs this work as a part of its larger organizational mission to promote civil rights in Alabama. GBM considers absentee ballot application assistance to be a public expression of its core value that voting is the key to advancing civil rights.

SB 1's Effect on GBM's Voter Assistance Activities

24. As a result of SB 1, GBM does not know which of its absentee ballot application assistance communications and activities are lawful and which are not. This has prevented GBM from being able to effectively plan its get-out-the-vote and public education events ahead of the November 2024 general election. GBM staff and members, including myself, feel threatened by the risk of criminal prosecution simply for helping voters lawfully apply for absentee ballots.

25. GBM has begun diverting time to understand which communications and activities are lawful because GBM does not want to expose its staff, interns, and volunteers to possible criminal prosecution. This has included spending hours reviewing SB 1 and its amendments, listening to and attending legislative hearings, spending time meeting with coalition partners to discuss SB1, and more. GBM has been forced to spend considerable time creating alternative plans for its voting work inside correctional facilities, which has been a major programmatic priority.

GBM had been planning for over two years to ramp up its work inside jails and prisons across Alabama to encourage and assist eligible individuals with absentee voting. To this end, GBM was awarded a grant in September 2023 to support this programming, which GBM began earlier this year in Tutwiler. GBM can no longer proceed with plans to train volunteers on absentee ballot assistance, including a law student whose summer externship was intended to include work inside Tutwiler encouraging and assisting eligible voters to request absentee ballots. GBM cannot risk exposing student volunteers to felony prosecution under SB 1. GBM wants to assist Alabamians with applying for absentee ballot applications and with casting absentee ballots successfully in the November 2024 general election, as well as in future elections. GBM particularly wishes to provide this assistance for the eligible incarcerated voters it encourages to participate in the democratic process—who can only vote via absentee mail ballot—but SB 1 threatens GBM’s ability to do this work. GBM staff and volunteers have a bona fide fear that they will be prosecuted for their absentee ballot application assistance to Alabamians.

26. GBM received a grant to conduct absentee voter registration at Tutwiler Prison and encourage democratic participation, and GBM assisted incarcerated voters in applying for absentee ballots before the 2024 presidential primary election. GBM would like to continue this work in advance of the November 2024 general election as well. SB 1, however, threatens GBM’s ability to achieve grant objectives (as well as the grant funder) by threatening its staff and volunteers with felony prosecution if they assist eligible incarcerated individuals with absentee ballot applications and voting.

27. GBM hopes to expand their work encouraging and assisting eligible incarcerated voters to apply for absentee ballots, both by adding more staff and by expanding the project to other correctional facilities, including St. Clair Prison, the Bibb Correctional Facility, and federal

prisons. As noted, for incarcerated individuals who are eligible to vote, their only option is to vote by absentee ballot. These individuals cannot complete the absentee ballot application process without the assistance of a third party (such as a GBM employee or volunteer) who prints the application, provides the pen needed to fill out the application, provides the envelope required to mail the application, and provides the postage required to mail the application. It is even possible that prison or jail officials and chaplains could face liability from providing application assistance for eligible incarcerated voters since they receive a salary to do their work. In the past, GBM has filled a critical gap by ensuring that eligible incarcerated voters can vote by registering for an absentee ballot. Now this assistance risks criminal prosecution of GBM staff and volunteers under SB 1. And if GBM or other similar organizations do not assist incarcerated voters with absentee ballots, those individuals will be unable to exercise their fundamental right to vote.

28. SB 1 has already impacted our ability to encourage and assist eligible voters with applying for absentee ballots and to educate the public on voting. GBM no longer brings absentee ballot applications into Tutwiler Prison, which means that GBM staff and volunteers are unable to assist eligible incarcerated voters apply to vote absentee. GBM recently held a training in Mobile in April 2024 for voting rights restoration and voter registration advocates and community members, but could not include information on absentee ballot application assistance because SB 1 does not clearly state what communication and assistance is lawful and we do not want to risk misinforming the public.

29. GBM creates and distributes election guides that include information on applying for and voting by absentee ballot. Because of SB 1, GBM has held off on distributing its 2024 guides in case the information regarding absentee ballot assistance is incorrect. GBM does not,

itself, understand what activities are criminalized under SB1, and does not want others prosecuted because of its educational materials.

30. GBM also engages in online civic education through our Power of Participation workshops. These modules include information on applying for and voting by absentee ballot. Prior to SB 1, GBM partnered with the Birmingham Municipal Court to offer civic education training online, which allowed participants to receive community service hours that counted towards requirements from their criminal cases. Due to SB 1, GBM does not plan to restart this program because it does not have the time, resources, or clarity on the law to amend its modules.

31. GBM has recruited new members at our voting events in the past. Members of the public often express an interest in becoming more involved with GBM's work and helping with future events. GBM has many volunteers who are not members (because they did not make a financial contribution), but instead help GBM occasionally. SB 1 will limit GBM's ability to recruit new volunteers and may lead current volunteers to quit because they fear felony prosecution.

32. SB 1 has restricted GBM's mission of registering people to vote, encouraging their participation, and assisting them in being able to cast a ballot on Election Day. Our constituents with disabilities, in particular, will be affected by SB 1 because they are unable to submit their absentee ballot applications without our assistance. There is an assisted living facility across the street from GBM's office; in the past, GBM had spoken with staff at the facility about assisting residents with applying for absentee ballots. Because of SB 1, GBM is unable to reach out to and assist these individuals.

33. SB 1 is an enormous obstacle for GBM's work and greatly reduces our ability to effectively convey our pro-voting message. Our staff, volunteers, and board members do not

understand whether they can continue to communicate with voters about applying for absentee ballots and assist them to do so, and whether they will be prosecuted for their actions if they do engage in such communication and assistance. .

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 02, 2024 in Birmingham, Alabama.

A handwritten signature in black ink, appearing to read "Scott Douglas", written over a horizontal line.

Scott Douglas

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF BENARD SIMELTON
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Benard Simelton, declare as follows:

1. My name is Benard Simelton, and I am the President of the Alabama State Conference of the NAACP (“Alabama NAACP”). I have served in this role since October 2009. The Alabama NAACP is a Plaintiff in this matter.

2. The Alabama NAACP is the state conference of the National Association for the Advancement of Colored People, Inc. (“NAACP”). The Alabama NAACP is a nonpartisan, membership organization with nearly 5,000 members residing in the State. Members of the Alabama NAACP pay annual dues. Approximately 95% of members identify as Black and most are lawfully registered voters. The Alabama NAACP oversees 35 branches and approximately 10 youth and college units of the NAACP in Alabama (collectively “units”), and all members of local units are members of the Alabama NAACP.

3. The Alabama NAACP's leadership includes the statewide Executive Committee as well as the leadership of local NAACP units throughout Alabama. The Alabama NAACP's work is led by unpaid members, such as my role as President, who staff and carry out the Alabama NAACP's voter engagement and education programming across the state. Paid staff and consultants also assist in carrying out our work.

4. Individual members include Black registered voters who are senior citizens, disabled, students, undereducated, and others who require assistance with the absentee voting process, including their absentee ballot applications. Some Alabama NAACP members also serve as assistors to such voters. The Alabama NAACP has assisted voters with absentee ballot applications and would like to continue doing so in the future.

Alabama NAACP's Mission and Viewpoints

5. The Alabama NAACP is the oldest and most significant civil rights organization in Alabama. The mission of the Alabama NAACP is to ensure the political, educational, social, and economic equality of Black Americans and all other Americans and to eliminate racial discrimination in the democratic process. Our objectives include seeking the enforcement of federal laws and constitutional provisions securing civil rights, as well as educating members and the public about their rights.

6. Voting and encouraging voting are foundational values of the Alabama NAACP. To that end, the Alabama NAACP conducts advocacy to safeguard equal access to the vote, as well as robust voter education and engagement programs to communicate and advance our views about the importance of participating in the political process by voting, including by absentee voting if eligible. The Alabama NAACP's voter education and engagement programs seek to engage Alabamians including those who are Black, elderly, disabled, students, undereducated,

incarcerated, or others who are less likely to be engaged in the political process and need assistance to participate in elections.

Alabama NAACP's Voter Education and Assistance Activities

7. Voter assistance activities, including absentee ballot application assistance, are a core part of the Alabama NAACP's voter education and engagement communications and programming and further our mission of encouraging participation in the democratic process.

8. Volunteers receive training and materials before participating in voter education and engagement events where they will be communicating the Alabama NAACP's pro-voting message by registering people to vote and assisting voters with their absentee ballot applications. Volunteers may also receive branded t-shirts, buttons, or pens as well as snacks/food and water.

9. To communicate our civic engagement message through our voter education and engagement work, the Alabama NAACP organizes in-person and virtual town hall meetings. During these events, we communicate the importance of voting through registering eligible Alabamians and providing information on the voting process, including by answering questions about in-person and absentee voting. Additionally, the Alabama NAACP hosts and participates in voter outreach and education events on college campuses.

10. At town hall meetings or campus events, the Alabama NAACP encourages eligible individuals to vote and has provided absentee ballot applications and assisted voters with completing applications on an as-required basis as part of that encouragement. At in-person town halls and campus events where we assist voters with their absentee ballot applications, we often provide water and snacks/food, and provide branded materials to assistors and other attendees.

11. Local units of the Alabama NAACP also host events where volunteers express our pro-voting message by helping to register Alabamians to vote, sharing voter education materials, and

providing absentee application assistance. For example, the Limestone County Branch of the Alabama NAACP hosted a public Drive-Thru Voter-Registration, Voter Education, and Photo ID event where volunteers assisted voters with registering to vote, updating voter information, absentee applications, and voter restoration. Volunteers are usually given branded t-shirts to wear, so that they are easily identifiable to voters who need their help. Volunteers at such events, which can be several hours long, often are provided snacks/food and water to sustain them. The Alabama NAACP often partners with other nonpartisan organizations, like the League of Women Voters of Alabama, who share our goal of encouraging civic engagement through voter education and engagement initiatives.

12. As part of our pro-voting encouragement and outreach, the Alabama NAACP assists voters in nursing homes and jails, many of whom would not be able to vote without such assistance. To encourage voters in these facilities to vote and vote absentee, the Alabama NAACP has obtained copies of the application form from county election officials and brought the copies to the facilities. We have also provided stamps and envelopes so that absentee ballot applicants can submit their applications in the mail. Because disseminating physical voter education materials to voters is our most effective means of communicating our pro-voting message to these voters and assisting them to successfully apply for an absentee ballot, we also have provided branded materials for these voters to review and share with other voters.

SB 1's Effect on Alabama NAACP's Voter Education and Assistance Activities

13. When SB 1 was being considered by the Alabama Legislature, the Alabama NAACP expressed extreme concern about the criminal penalties imposed for providing assistance to other members and the communities we serve. On February 28, 2024, Norma J. Sanders, a member of the Alabama NAACP, testified before the House Constitution, Campaigns, and Elections

Committee about the critical role absentee voting assistance plays in our voter encouragement and engagement work and our long history of providing assistance to voters. We explained our concern that SB 1 will render criminal the assistance work the Alabama NAACP has historically provided, our most effective means of communicating our pro-absentee voting message.

14. The Alabama NAACP would like to continue our work encouraging eligible voters to vote absentee and help them to do so, but now that it is enacted, SB 1 severely chills the Alabama NAACP's ability to conduct effective absentee voting campaigns and communicate the message that voting should be accessible to all. Due to past targeting of our members in Alabama who assisted absentee voters, the fears of criminal prosecution and liability of current Alabama NAACP volunteers and members are especially acute.

15. Indeed, SB 1 already has restricted the Alabama NAACP's work. In the 2024 primary elections earlier this year, the Alabama NAACP refrained from providing any absentee application assistance, including for residents of nursing homes, because we felt threatened by the uncertainty of SB 1's language and did not want to put our members or anyone else at risk of prosecution.

16. The Alabama NAACP had planned to encourage eligible voters among our members and the communities we serve to participate in the November 2024 general election by requesting an absentee ballot. Due to SB 1, however, The Alabama NAACP has directed all local units to not assist with the absentee application process, due to SB 1's prohibitions. We do not plan to assist voters with the absentee application process for the November 2024 general election, curtailing this expression of our pro-absentee voting message. We will no longer provide absentee applications or assistance in nursing homes, jails, and colleges and universities or at town halls.

17. Instead, as a result of SB 1, the Alabama NAACP must expend time and resources to try to understand what conduct is and is not prohibited under the law and provide local units and

members with guidance regarding the same. Because the Alabama NAACP's voter outreach work is conducted by volunteers, the Alabama NAACP also will need to devote considerably more time and resources into ensuring that our volunteers going forward receive training regarding SB 1's prohibitions to ensure that they do not risk committing a crime. We will need to produce new training and materials for volunteers and produce new voter education materials. The burdens caused by SB 1 also mean the Alabama NAACP will no longer be able to effectively engage in our pro-absentee voting activities. We will be forced to divert resources away from absentee application assistance and towards other forms of voter engagement communications aimed voter education, voter registration, and getting out the vote on Election Day even though we know some voters require absentee voting to participate. SB1 is a severe obstacle for our pro-absentee voting message.

18. Through its vague terms, SB 1 criminalizes a broad swath of mission-related communications and activities. Without defining "gift," "payment," or "third party," SB 1's criminal penalties will severely curtail our get out the vote activities around absentee application assistance. It is unclear if any of the following routine activities would constitute payment or gifts: distributing tokens like t-shirts, buttons, and pens to volunteers who assist with absentee ballot applications; disseminating branded voter education materials to volunteers who provide absentee application assistance; providing volunteers with envelopes and stamps to be given to voters for the purposes of mailing their application; or supplying water and snacks/food for volunteers at events where absentee application assistance take place.

19. Further, it is unclear what kinds of absentee application assistance the Alabama NAACP and our partners could provide because SB 1 does not define terms it uses like "prefill," "distribute," or "submit." The Alabama NAACP regularly assists voters who are elderly and have

a physical impairment or low literacy skills with completing their absentee ballot applications. Under SB 1's vague "prefilling" restriction, it appears we cannot input a voter's information into their absentee application, even when the information is copied from the state's voter file and at the direction of the voter. SB 1's vague prohibition of "distributing" absentee ballot applications suggests that the Alabama NAACP may be prohibited from sending a link to the application to our members or voters who join our mailing list. For certain voters, especially those in nursing homes or jails, SB 1 suggests that the Alabama NAACP may be unable to even place their application in the mailbox, even if the voter has a physical impairment that makes it difficult or impossible for them to deposit the application in the mail themselves.

20. SB 1 also appears to criminalize assistance from volunteers who belong to "third party" organizations which might include organizations like the Alabama NAACP. This detrimentally impacts voters who have relied on our volunteers for help in the absentee voting process. SB 1 will deter our members and constituents from requesting assistance and volunteers from providing it. For the disabled and low literacy voters who depend on our absentee application assistance, SB 1's burdens are an extreme impediment to their ability to receive assistance with voting.

21. I fear that if voters who rely on the Alabama NAACP for assistance do not receive the assistance they need, at least some of these voters will forego voting altogether. Voters have expressed concern about not being able to receive the necessary assistance to vote absentee and the deterrent effect SB 1 will have on them from voting absentee. Members and voters who depend on our assistance have told me that they do not know how they will apply to vote absentee or vote if they cannot receive assistance with their absentee applications.

22. As a result of SB 1, Alabama NAACP has been and will continue to be forced to severely limit our absentee voting activities, including during the particularly critical period leading to the November 5, 2024 general election.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 2, 2024 in Huntsville, Alabama.


Benard Simelton (May 2, 2024 08:28 CDT)

Benard Simelton

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF KATHY JONES
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Kathy Jones, declare as follows:

1. I am the President of the League of Women Voters of Alabama and the League of Women Voters of Alabama Education Fund (collectively “LWVAL” or the “League”). I have served in this role since May 2021, and have been a member of the League since May 2017.

2. Plaintiffs League of Women Voters of Alabama and the League of Women Voters of Alabama Education Fund, formed under Section 501(c)(4) and Section 501(c)(3) of the Internal Revenue Code, respectively, are nonpartisan, nonprofit, grassroots organizations that seek to encourage informed and active participation in government, work to increase understanding of major public policy issues, and influence public policy through education and advocacy. LWVAL is dedicated to encouraging its members and the people of Alabama to exercise their right to vote. LWVAL was founded in 1920, created out of the Alabama Equal Suffrage Association.

3. LWVAL is a state chapter of the national League of Women Voters (“LWV”) which

was founded in 1920 as an outgrowth of the struggle to win voting rights for women and has more than 500,000 members and supporters and is organized in more than 750 communities in all 50 states and the District of Columbia.

4. LWVAL consists of eight affiliated local Leagues statewide. LWVAL has approximately 475 members across the state of Alabama. LWVAL's members include voters who are over 65 years old, who are disabled, and others who are students that may need or prefer assistance with voting, including with completing their absentee ballot application.

5. As recently as the March 2024 primary elections, a part of the League's encouragement of voters to participate in the upcoming election included assisting voters in applying for absentee ballot applications, including senior citizens who require assistance and voters with disabilities.

6. For the year 2024 and beyond, LWVAL plans to continue encouraging eligible Alabamians to vote and hopes to continue to do so by engaging in absentee ballot application assistance on behalf of its members and the communities it serves across the state of Alabama.

LWVAL's Mission and Viewpoints

7. LWVAL's mission is to protect the right to vote for Alabama voters. We believe that every Alabama voter should be able to effectively cast their ballot. We seek to encourage the informed and active participation of citizens in Alabama government through participation in public policy and voting. Our work builds on the history of the women's suffrage movement, which spurred the creation of the League of Women Voters. Since its founding, LWVAL has fought to protect the rights of eligible voters and to expand access for those who have been left out of the democratic process.

8. LWVAL comprises about 475 dues-paying members, many of whom volunteer in

Alabama communities to spread LWVAL's pro-democratic engagement message and provide voter services. LWVAL has no paid employees or staff involved with its operation, including its voter services. Therefore, all the time that League members devote to the League and to voter services is entirely voluntary.

9. LWVAL has eight affiliated local Leagues across the state of Alabama that make up about 475 members statewide. All local Leagues have a voter services team that engages, communicates with, and educates voters. This includes assisting Alabamians with the absentee ballot process. LWVAL offers trainings to all its members, volunteers, and state partners to better engage and educate Alabamians on civic participation, including assistance with absentee ballot applications.

10. LWVAL believes that voter assistance is a vital component in expressing its belief that all eligible voters should participate in the democratic process. To that end, LWVAL provides regular training to its local League leaders, its members, its volunteers, and to its nonpartisan partners to assist voters in getting registered, applying for an absentee ballot, and voting absentee.

11. LWVAL does this work as a part of its mission to protect the right to vote for Alabama voters and considers absentee ballot application assistance to be an expression of those core values. Likewise, LWVAL uses absentee ballot application assistance as a part of a larger dialogue about a citizen's voting plan and the importance of voter turnout. Voter services education and direct services events are a means to associate with its members and the larger community, often recruiting members in the process.

12. LWVAL members and volunteers do this work as a part of its mission to protect the right to vote for Alabama voters, and LWVAL considers absentee ballot application assistance to be an expression of those core values to the public.

LWVAL's Absentee Ballot Application Activities

13. LWVAL hosts public civic education events to encourage civic participation and as a central part of LWVAL's voter services program. These events include discussion of absentee voting and the provision of information and assistance with absentee ballot applications.

14. These events are hosted at various locations including nursing homes, college campuses, libraries, music festivals, art festivals, food pantries, and other community events where LWVAL members and volunteers can meet and speak with eligible Alabama voters. LWVAL's members and volunteers bring tents, tables, printers, printed absentee ballot applications, pens, clipboards, papers, and any other supplies needed to further assist and educate voters to engage in the democratic process. Specifically, LWVAL will bring printers and absentee ballot applications to encourage and assist voters who would like to apply for an absentee ballot, and pens to help the voter fill out the application. LWVAL members will inform voters about absentee voting in Alabama and walk voters through the absentee ballot application section by section to ensure they are completing the form accurately. LWVAL members and volunteers will serve as a witness for voters submitting an absentee ballot application, if they sign with a mark. LWVAL will also make a copy of voters' ID to complete their absentee ballot application, if needed. LWVAL provide this assistance and supplies at the organization's expense.

15. The League's assistance and education includes speaking with Alabamians to help them determine if they are eligible to register to vote, help them navigate the voter registration form, and help them apply for an absentee ballot application if the voter is eligible to vote absentee.

16. Often at these events, as part of promoting the League's pro-voting message, the League will often provide "I registered to vote" or "Alabama voter" stickers or bracelets which are branded with the LWVAL logo, and express LWVAL's message that voters have the right to vote

and should participate in our democracy. LWVAL provides these stickers and bracelets to participating voters when they register to vote or apply for an absentee ballot application. LWVAL and its local Leagues often provide “Future Voter” stickers to children attending the events.

17. To communicate the League’s pro-democratic engagement message, LWVAL members and volunteers provide civic education and assist senior citizens who require assistance, college students, voters with disabilities, residents in assisted living and nursing home facilities in applying for and voting by absentee ballot. LWVAL is currently developing a strategy to better communicate with, assist, and provide civic education to voters in rural areas, including regarding absentee ballot applications.

18. Among other assistance, LWVAL members and volunteers print absentee ballot applications for voters and provide detailed instructions on how to fill out the applications. Because the state of Alabama does not allow voters to complete an absentee ballot application online, LWVAL provides printed applications for voters’ respective county to convey their pro-absentee voting message and ensure voters have the tools they need to act on the League’s message and apply for an absentee ballot if they so desire.

19. LWVAL believes that its role in providing these printed applications and detailed instructions is critical to voters because LWVAL members and volunteers are able to provide help and assistance to voters when the voters needs it, including when county Absentee Election Manager offices are closed. LWVAL voter services are not limited to weekdays or business hours. Many voters are unable to visit their county’s Absentee Election Manager’s office during their operating hours, so LWVAL members and volunteers meet voters where they are and host voter education events weeknights and on the weekends to better assist and educate voters on the absentee application process. LWVAL members and volunteers also provide envelopes and

postage to submit the application, make photocopies of the voters' photo IDs, and spend time with the voter to ensure any errors are corrected.

20. LWVAL members and volunteers go directly to Alabama college campuses and host voter registration drives, where its members and volunteers communicate the League's pro-voting message and also assist college students in completing absentee ballot applications. To do this work, LWVAL partners with school administrators, student organizations, and other civic organizations that share the League's goal of encouraging democratic engagement, including Greater Birmingham Ministries, NAACP Alabama, and ADAP to provide voter education, including information about voter registration and absentee voting. Many Alabama college students are eligible to vote absentee but lack the requisite information to apply for an absentee ballot application. LWVAL partners with student organizations to provide accurate absentee voting information to those students who otherwise would not have known they were eligible to vote absentee or known how to apply for an absentee ballot.

21. To communicate and share the Leagues' pro-democracy message at voter registration drives, LWVAL members and volunteers often give away stickers or pens to student voters when assisting them in completing an absentee ballot application. The stickers include messaging about the importance of voting, such as "I vote because I care."

22. LWVAL believes that having its members and volunteers go directly into nursing homes to provide civic education and assistance is the most effective means of communicating its pro-voting message to these voters, and in many cases is necessary where voters are unable to come and go into the nursing homes as they please. LWVAL's providing voter services in nursing homes is critical to fulfilling its vision of ensuring democracy works for everyone and furthering the League's pro-voting message. Because these voters often cannot make it to their polling place

on election day, LWVAL's work to communicate with voters who are marginalized, homebound, incapacitated, or that otherwise require assistance and ensure they can participate in the democratic process is crucial to those voters' ability to cast a ballot.

23. To further reach voters in Alabama, LWVAL manages the Alabama section of VOTE411.org, a webpage dedicated to providing essential information to ensure all Alabamians are informed about how to vote, including voting absentee. LWVAL will often refer voters to this website for further information on how to apply for an absentee ballot in Alabama. This webpage links voters to the Secretary of State's website to direct voters to apply for an absentee ballot.

24. We believe that without our encouragement and assistance, many voters would be unable to apply for an absentee ballot. Often, LWVAL assists voters over the age of 65 who are hearing or vision impaired. LWVAL often serves as the main resource for these voters to turn to for assistance with the absentee ballot application. It can also be difficult for college students to find and complete an absentee ballot application. Because some students do not receive mail directly at their dorm, students struggle with completing the form using their correct address. Through partnering with student organizations and tabling at college campuses, LWVAL serves as a critical proponent of democratic engagement by college students and resource for students needing assistance in finding and completing an absentee ballot application.

25. Through LWVAL's registration tables in the community, members have observed voters making mistakes on registration forms and absentee applications which could result in a denial and ultimately in position unable to participate in the electoral process. LWVAL's communication with those voters can often result in those voter mistakes being corrected so that the voter is properly registered and has their absentee application successfully processed. However, LWVAL believes that many voters they serve, including senior citizens that require assistance,

voters with disabilities, and college students would be unable to submit their absentee ballot application without LWVAL's assistance.

SB1's Effect on LWVAL's Voter Assistance Activities

26. LWVAL wants to continue effectively expressing its pro-absentee voting message by assisting voters in applying for and voting absentee, especially senior citizens who require assistance, voters with disabilities, and college students, but SB 1 threatens LWVAL's ability to do so. LWVAL is currently developing a voter service program targeting rural voters, but SB1 creates much uncertainty as to what forms of absentee ballot application communication and assistance are lawful, and what services are unlawful.

27. As such, LWVAL has had to severely limit how the League is communicating its pro-absentee voting message. LWVAL has informed all local Leagues that it will provide formal guidance and training regarding absentee ballot application assistance. Because the criminal penalties are severe, LWVAL plans to provide their members and local Leagues with guidance before they continue communicating about and assisting voters with their absentee ballot applications. LWVAL partner organizations are also awaiting advice from LWVAL on what types of communication and assistance are lawful.

28. LWVAL and our volunteers and members feel threatened by the uncertainty of SB 1's provisions and fears that League members and volunteers will face felony prosecution and conviction of a felony if they continue to help voters with their absentee ballot applications.

29. LWVAL plans to determine what communication is lawful, then conduct training sessions solely focused on the impact of SB 1 to ensure its members and volunteers are still able to speak with and assist voters lawfully. LWVAL plans to conduct additional training concerning the absentee ballot process, including providing educational sessions that involve registrars and

circuit clerks.

30. LWVAL is an organization comprised entirely of volunteers and its resources are finite. In order to understand what communication and assistance is lawful, LWVAL members and volunteers are diverting time and money that they would otherwise have spent preparing for other additional voter engagement activities that furthered the League's pro-voting message in the upcoming elections. LWVAL members and volunteers are having more meetings to discuss what voter communications and services are lawful, rather than providing those voter services and furthering the League's pro-democracy messaging. LWVAL are also meeting with other organizations that share the League's goal of encouraging democratic engagement to create a mobilization strategy for those unable to get to the polls on election day, and to ensure voters can vote absentee in person at their absentee managers office. This mobilization strategy includes working with other community organizations to coordinate rides to the polls for those voters that cannot make it to their polling place on election day. LWVAL are also developing instructional tools for voters to navigate the absentee ballot application.

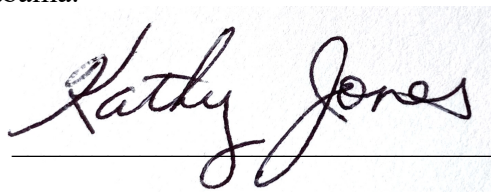
31. Furthermore, because of the potential criminalization of absentee ballot application communication and assistance, LWVAL plans to divert resources traditionally used for that work to other forms of voter engagement such as increased efforts towards encouraging in person absentee voting, in person voting on election day, and assisting Alabamians with voter registration. This will decrease the overall number of eligible Alabamians that LWVAL is able to communicate with and assist, as such efforts are time and resource intensive and in person voting is not possible for every Alabama voter.

32. LWVAL has had to reduce the total quantum of its speech about the importance of voting and the availability of voting absentee as a result of SB 1. I fear LWVAL will reach fewer

voters because of SB 1, and therefore, fewer voters will be able apply for and vote absentee, or vote at all, as a result.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2024 in Huntsville, Alabama.

A handwritten signature in black ink that reads "Kathy Jones". The signature is written in a cursive style and is positioned above a solid horizontal line.

Kathy Jones

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF NANCY ANDERSON, ESQ.
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Nancy Anderson, Esq., declare as follows:

1. My name is Nancy Anderson, and I am the Acting Executive Director of Plaintiff Alabama Disabilities Advocacy Program (“ADAP”), Alabama’s federally funded Protection and Advocacy (“P&A”) agency. I was admitted to the Alabama Bar in 2000. I have been employed by ADAP since 2000 and have served in various positions at the agency in intervening years. I am currently the Interim Executive Director of ADAP and have served in this role since February 2024 upon the retirement of the agency’s prior director.

2. ADAP is part of a nationwide system of P&A agencies which was created by the federal government in 1974. The mission of the P&A system is to provide legal advocacy services to protect and promote the civil rights, well-being, and equality of opportunity for individuals with disabilities, including in voting. ADAP is the designated P&A for the State of Alabama. As such, ADAP is accountable to members of the disability community and is authorized under federal law

to represent the interests of Alabamans with disabilities. All individuals with disabilities in Alabama are constituents of ADAP.

3. ADAP's advocacy work is funded primarily by nine federal grants, which are dedicated to serving a particular community of persons with disabilities (*e.g.*, persons with developmental disabilities) or a particular issue area (*e.g.*, access to assistive technology). ADAP also receives a small amount of funding via private grants. In my role as Interim Executive Director, I am the designated Principal Investigator ("PI") for each of the grants which ADAP receives.

4. As PI, I am responsible for ensuring that ADAP complies with the terms and conditions of each of its grants. This includes, but is not limited to, ensuring that each grant's goals and priorities are met and that ADAP meets regular financial and grant outcome reporting obligations.

5. One of the federal grants which ADAP receives is ADAP's Protection and Advocacy for Voting Accessibility ("PAVA") grant. The PAVA grant program was created under Section 291 of the Help America Vote Act ("HAVA"), which was signed into law in October 2002. The PAVA grant is administered at the federal level by the Administration for Community Living ("ACL").

6. ADAP receives a substantial amount of federal funding under its PAVA program to perform its obligations under the grant. The purpose of the PAVA grant is to provide services to individuals with disabilities within the state, and to advocate for the full participation of individuals with disabilities in the electoral process.

7. In addition to serving as the PI on the PAVA grant, I also serve as the direct supervisor of Nicole Watkins, ADAP's Voting Rights Advocate. Approximately 80% of Ms. Watkin's work involves voting rights advocacy under the PAVA grant. Other ADAP staff integrate PAVA voting rights advocacy in the normal course of their advocacy activities though to a much lesser extent than Ms. Watkins.

8. Under the terms of HAVA, ADAP must use PAVA funds to promote and participate in activities focused on ensuring the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places. The activities in which ADAP engages under the PAVA grant include encouraging individuals with disabilities to vote; providing individuals with education regarding voter registration; providing individuals with disabilities the opportunity to register to vote; providing information to people with disabilities about their voting rights; and providing individuals with disabilities with help in accessing the voting process.

9. As absentee voting is the only practical way for many individuals with disabilities to fully participate in the election process – the key goal of the PAVA grant – ADAP assists individuals with disabilities in accessing the absentee voting process. This includes informing people about and helping them to understand absentee voting rules. A part of conveying this message and assistance includes helping the individual to obtain and fill out an absentee ballot application, whether online or on paper, and assisting them in delivering the absentee ballot application. Through its work, ADAP seeks to convey the message that voting should be accessible to all, regardless of disability status.

10. As I noted above, as PI, I am responsible for ensuring that ADAP complies with the terms and conditions of each of its grants. This includes, but is not limited to, ensuring that each grant's goals and priorities are met and that ADAP meets regular financial and grant outcome reporting obligations. All ACL grantees must annually report activities and outcomes in federal reports. They are also subject to cyclical remote and onsite audits to ensure compliance with the terms of the grants.

11. As enacted, Alabama SB 1 criminalizes conventional but vital absentee voter communication and assistance activities which ADAP undertakes to fulfill its obligations under the PAVA grant to help individuals with disabilities participate fully in the election process.

12. SB 1 will force ADAP to forego this key pro-voting and voter access advocacy to ensure that its staff are not subject to significant criminal penalties for simply doing their jobs. Setting aside absentee ballot communications and assistance will gut a strategic activity ADAP undertakes to fulfill its mandate under the PAVA grant to ensure full election participation.

13. Because HAVA precludes ADAP from using PAVA funds to engage in, initiate or otherwise participate in any litigation related to election-related disability access, my efforts and those of other ADAP staff related to this litigation are supported by non-PAVA funds.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2024, in Tuscaloosa, Alabama.

Nancy Anderson

Nancy Anderson

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF NICOLE WATKINS
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Nicole Watkins, declare as follows:

1. My name is Nicole Watkins and I serve as the Senior Voting Rights Advocate and Outreach Coordinator at Plaintiff Alabama Disabilities Advocacy Program (“ADAP”). I am a paid employee of ADAP and I have worked at ADAP since March 2022.

2. My work at ADAP is divided into approximately 80% voting rights work (through the mechanisms of HAVA, the Help America Vote Act), and 20% communications work. This Declaration will focus on the voting rights aspect of my work, though there is by nature some overlap between the two; training individuals often requires the creation of communications media and using other tools at my disposal to create digestible and accessible content.

3. My PAVA (Protection and Advocacy for Voting Access) work includes, but is not limited to, working with people with disabilities in the following ways:

- Polling site visits;
- Voter registration;

- Voter training;
- Residential and in-patient facility visits;
- Training employees of residential facilities on the voting process;
- Meeting with election officials to highlight and discuss accessibility issues;
- Attending statewide Voting Advisory Board meetings to present data and discuss issues;
- Working with people with disabilities to assess their individual polling places for potential access barriers;
- Training people with disabilities on available accommodations at the polls;
- Helping people with disabilities, both in facilities and in the community, to understand the absentee ballot process; and
- Assisting voters in the application process for an absentee ballot.

4. People with disabilities who need assistance with the absentee ballot process, including applications, require assistance for several reasons. The voter may be blind, so they would need assistance filling out their application or ballot since Alabama does not provide these materials in Braille. They may have mobility issues or dexterity issues and struggle to fill out an application or a ballot. Many people with different types of neurodegenerative disabilities struggle to write. Many people with different varieties of intellectual disabilities need assistance reading through the application or ballot and processing the information, particularly since most of the information is not available in plain language format, can require a high level of reading and writing comprehension, and can be overwhelming for people with certain kinds of sensory, intellectual, or mental disabilities.

5. Absentee applications require multiple steps, generally including accessing the application either online or in hard copy, reading, understanding, and completing the fields on the form, creating a hard copy of photo identification for inclusion with their application, and returning the completed application back to the Absentee Election Manager either in person or by mail. The assistance I provide with the application process, including when I visit residents at residential facilities, can take several forms. The most basic would involve helping a person who cannot easily read the absentee application. In these instances, I would

read to the person what each portion of the application asks of the voter and then fill in their responses. Other forms of assistance include walking the voter through the numerous steps involved in applying for an absentee ballot, filling out the application, and eventually, the receipt of the absentee ballot and the subsequent steps for sending in the ballot and affidavit appropriately.

6. Those living in residential and in-patient facilities will also need assistance to mail their applications and ballot and typically require help from staff to access the internet. In most facilities, the staff would be the people mailing the resident's application or ballot. People in facilities often do not send their own mail or have their own mailbox. Some do not have ready or easy access to envelopes or stamps.

7. As I have alluded to above, I also provide voter education and training at these facilities. In 2022, I gave a presentation to the Alabama Department of Mental Health ("ADMH") at the Alabama Institute for Recovery ("AIR") conference, together with ADAP's Voting Rights Fellow at the time, Maddy Ard. In this presentation, we trained employees on the absentee process specifically since the residents in the facilities would be voting absentee. Employees attending worked at various ADMH facilities, including Taylor Hardin and Bryce Hospitals.

8. I have also provided extensive training to county election officials, particularly in Mobile County in 2022 and 2023. Much of that training relates more specifically to polling place requirements under the Americans with Disabilities Act but has also included training on the absentee process and the state laws surrounding the procedures of voting absentee.

9. Most of my training efforts and work with voters focuses on the absentee process, simply because most of the people we serve (individuals with disabilities) vote absentee for several reasons, including but not limited to:

- Limited or no access to transportation;
- Medical conditions that confine people to their homes (what we would formerly describe as “homebound” individuals);
- Individuals with mobility disabilities who struggle to walk and navigate polling places;
- Individuals with disabilities who are unable to drive and have limited family or care worker support;
- Individuals with disabilities living in residential facilities or mental health hospitals; and/or
- Individuals with disabilities in group homes.

10. I would estimate that around 70% of my work focuses on the absentee voting process, including as recently as the March 2024 primary elections in the state. Evaluating data from the past several years, I have trained hundreds of voters on the absentee voting process and personally assisted scores of individuals with their absentee applications and ballots. I have referred multiple people living in residential facilities or mental health hospitals to voting rights attorneys when it appears their rights have been violated. Together with other ADAP staff members, I have trained employees of two state hospitals (Bryce Hospital and Taylor Hardin) on the absentee ballot process and how to assist residents with voting.

11. ADAP would very much like to continue its federally mandated work to assist disabled voters with absentee ballot applications in Alabama for the upcoming November 2024 election and beyond. But since the passage of Alabama Senate Bill 1 (“SB 1”), my understanding of ADAP and its employees’ (including myself) personal criminal liability under this statute includes the fact that I may be able to assist a voter but may be subject to the misdemeanor provisions of the statute – either for placing the ballot in the mailbox for the voter *and/or* depending on what the legal definitions of “submit” and “prefilling” involves. I

have assisted voters by printing out applications (using our office printers) for absentee ballots and then walking voters through the process of mailing the applications. I have also used my own internet access and/or ADAP internet access to assist voters with the absentee application process. While I understand that the current statute is not yet being enforced, in the future, this would also leave ADAP and its staff legally vulnerable to felony liability depending on how “payment” and “gifts” as well as the word “distribute” are legally defined under the statute. I understand that, as an employee of ADAP, the mere fact of receiving a salary could subject me to criminal liability if I were to continue helping disabled voters with their absentee applications. I am extremely fearful of these criminal penalties and they are likely to foreclose ADAP’s ability to engage in absentee ballot assistance for disabled and blind voters who depend on it.

12. I have received questions about SB 1 from a wide variety of groups, nonprofit organizations, and individuals with disabilities since its passage. People have asked for guidance specifically on voter assistance, including many parents of older children with disabilities who are of voting age. Caregivers, both familial and professional, have asked for guidance on how to assist a disabled client with the absentee application and ballot process. There is significantly heightened anxiety around the bill and concern about the potential for breaking the law and what consequences these individuals might face.

13. Also since the passage of SB 1, a large portion of my professional time has been devoted solely to SB 1 and questions around the new law. I have been fielding emails and calls from concerned individuals in the disability community for several weeks now. When I have trained disabled individuals in the community since the passage of the bill, I always

receive several questions about the bill and concerns from community members about what the law means for either themselves or their disabled loved ones.

14. Under SB 1, it appears ADAP is unable to provide voters with the kinds of assistance in the absentee ballot process outlined elsewhere in this declaration and will not be able to do so while the law is in place. I, as the Senior Voting Rights Advocate, will personally be violating the terms of my professional role and the required deliverables for my federal funding stream under the Help America Vote Act. More significantly, people with disabilities in Alabama will lose access to secure, nonpartisan, and federally funded assistance with the voting process. People with disabilities in Alabama (and throughout the United States) already vote in much more limited numbers than the non-disabled population. Limiting assistance with the voting process available to these individuals with disabilities will mean that many people with disabilities will be unable to vote at all.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2024 in Birmingham, Alabama.



Nicole DeBuono Watkins