IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA DECIDES HEALTHCARE, INC., *et al.*,

Plaintiffs,

v.

BYRD, *et al.*,

Defendants.

No.: 4:25-cv-00211-MW-MAF

SMART & SAFE FLORIDA, *et al.*,

Intervenor-Plaintiff,

v.

BYRD, *et al.*,

Defendants.

LEAGUE OF WOMEN VOTERS OF FLORIDA, *et al.*,

Intervenor-Plaintiffs,

v.

BYRD, *et al.*,

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION BY LEAGUE OF WOMEN VOTERS OF FLORIDA, LEAGUE OF WOMEN VOTERS OF FLORIDA EDUCATION FUND, INC., LEAGUE OF UNITED LATIN AMERICAN CITIZENS, CECILE SCOON, AND DEBRA CHANDLER

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

Other Authorities

INTRODUCTION

The Court should preliminarily enjoin specific provisions of HB 1205 (the "Law") before these provisions go into effect on July 1, 2025, because they are unconstitutional as violations of free speech and equal protection. HB 1205 targets not only sponsors and paid petition circulators but also the broader network of volunteer petition gathering that is essential to democratic participation. It restricts who may collect petitions, dictates how petitions may be gathered, and imposes criminal penalties on volunteers and civic groups engaged in advocacy, thereby chilling core political speech and undermining civic engagement.

Plaintiffs, the League of Women Voters of Florida and League of Women Voters of Florida Education Fund, Inc. (together, "LWVFL" or the "League"), League of United Latin American Citizens ("LULAC"), and two members (as well as the current Co-Presidents) of LWVFL, Cecile Scoon and Debra Chandler (together, "Individual Plaintiffs") (collectively, "Plaintiffs"), are individual volunteers and organizations that depend entirely on volunteers that have engaged in petition collecting efforts in the past and would like to continue engaging in those efforts. But because of the penalties associated with HB 1205, they will almost certainly cease engaging in petition collecting efforts, absent an injunction. The Motion proceeds as follows. First, Plaintiffs are entitled to a preliminary injunction

regarding the following provisions, which if allowed to take effect, would eliminate their volunteer-driven petition efforts across the state.

- **Eligibility Restrictions:** The Law bans noncitizens and out-of-state residents from participating in petition gathering altogether. Fla. Stat. § 100.371(4)(b).
- **Definition Provision and Personal Use Restrictions:** The Law requires any person who collects, delivers, or otherwise physically possesses more than 25 petitions (not including their own and those signed by immediate family members) to comply with burdensome regulatory requirements or be subject to a third-degree felony. Fla. Stat. §§ 100.371(4)(a), 104.188(2). And even those collecting fewer than 25 petitions (not signed by a family member) must include with their forms a vaguely-worded notice that it is a third-degree felony to physically possess more than 25 petitions at any time without registering as a petition circulator. Fla. Stat. § 100.371(3)(e).
- **Registration, Disclosure, and Affidavit Requirements:** To register as a petition circulator, individuals are required to provide their Social Security number to the Secretary of State, disclose other personal information like citizenship status, felony convictions, and residency, and affirm that they commit a crime for "false swearing." Fla. Stat. §§ 100.371(4)(c)2, 100.371(4)(c)(6)–(8), 100.371(4)(c)(9). They must also include on every

signed petition form they collect their name and permanent address. Fla. Stat. § 100.371(3)(d).

Second, Plaintiffs have standing to challenge the above-listed provisions as well as those that were addressed in the First Preliminary Injunction Motion filed by the FDH and SSF Plaintiffs, Doc. 92, and the subject of the hearing held before this Court on May 22, 2025.

RELEVANT FACTUAL BACKGROUND

The damage to Plaintiffs wrought by HB 1205 has been immediate and severe. In the weeks since HB 1205's passage, Plaintiffs (both as individuals and organizations) have been inundated with questions from terrified volunteers who, despite their immense passion for supporting direct democracy, are worried they will either commit a felony or expose the League or LULAC to liability by making a mistake. Ex. A, Declaration of Cecile Scoon on behalf of LWVFL ("LWVFL Decl.") ¶ 19 ; Ex. B, Declaration of Juan Proaño on behalf of LULAC ("LULAC Decl.") ¶ 26; Ex. C, Declaration of Debra Chandler in her Individual Capacity, ("Chandler Decl.") ¶ 35. To respond to this, Plaintiffs have had to develop several trainings, engage in many individual conversations, and otherwise devote time and resources

to assuaging the concerns of their members. Ex. A, LWVFL Decl. ¶ 45; Ex. B, LULAC Decl. ¶ 26.

In the meantime, Plaintiffs, unable to discern the meaning of the challenged provisions, have struggled to provide answers to volunteers. Ex. C, Chandler Decl. ¶ 33; Ex. D, Declaration of Cecile Scoon in her individual capacity, ("Scoon Decl.") ¶ 20. These ambiguities, and HB 1205's wholesale exclusion of noncitizens and non-Florida residents, have eviscerated Plaintiffs' volunteer base. Ex. A, LWVFL Decl. ¶ 51; Ex. B, LULAC Decl. ¶¶ 19 –21. As a result of the provisions, both cumulatively and individually, Individual Plaintiffs and LULAC will cease petition collection altogether and LWVFL's leadership will tell its members to stop petition collection as of July 1, if the law is not enjoined. Ex. A, LWVFL Dec. ¶ 53; Ex. B, LULAC Decl. ¶ 27; Ex. C, Chandler Decl. ¶ 38; Ex. D, Scoon Decl. ¶ 23.

LEGAL ARGUMENT

Plaintiffs are entitled to a preliminary injunction because they establish (1) a likelihood of success on the merits, (2) irreparable harm, and (3) that the balance of the equities and public interest weigh in their favor. *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1268 (11th Cir. 2006); *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020).

I. THE COURT SHOULD GRANT PLAINTIFFS' MOTION PRELIMINARY INJUNCTION.

A. Plaintiffs Will Succeed on the Merits of Their Claims.

1. Eligibility Restrictions

The Law bars noncitizens, non-residents, and individuals convicted of felonies who have not had their right to vote restored[1] from participating in any petition collection, including collecting fewer than 25 petitions from non-family members ("Noncitizen Provision" and "Non-Resident Provision") (together, "Eligibility Restrictions"). Fla. Stat. § 100.371(4)(b). This is a violation of Plaintiffs members' constitutional rights.

(i) The Noncitizen and Non-resident Provisions infringe Plaintiffs' free speech and associational rights and cannot withstand exacting scrutiny.

Undue burden on speech: Petition circulation receives the full protection of the First Amendment. Nearly forty years ago, the Supreme Court unequivocally affirmed that circulating initiative petitions is protected by the First Amendment as "core political speech," since it involves "interactive communication concerning

[1] Plaintiffs are not including in this Motion the restriction on individuals with felony convictions, though they do challenge that provision in this litigation as well.

political change." *Meyer v. Grant*, 486 U.S. 414, 422 (1988); *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 192 (1999).

For precisely this reason, the Supreme Court in *Buckley* struck down Colorado's requirement that only registered voters could circulate petitions, finding it impermissibly burdened on core political speech. *Id.* at 194. The Court relied on evidence showing that such a ban "limits the number of persons available to circulate and sign [initiative] petitions," reduces "the pool of potential circulators," restricts "the number of voices who will convey [the initiative proponents'] message," and diminishes "the size of the audience [proponents] can reach" *Id.* at 194–95 (cleaned up). This rationale also underpinned the Court's earlier decision in *Meyer*, which invalidated Colorado's prohibition on paid petition circulators. 486 U.S. at 422–23 (finding the ban "has the inevitable effect of reducing the total quantum of speech on a public issue").

The Law's Eligibility Restrictions mirror those struck down in *Buckley* (prohibition on non-registered voters) and *Meyer* (prohibition on paid circulators) by entirely banning groups from participating in core political speech. Both LWVFL and LULAC depend on noncitizens—including green card and visa holders—to help gather petitions, and these organizations can no longer rely on the contributions of

these individuals. *See, e.g.*, Ex. A, LWVFL Decl. ¶¶ 33–35, ; Ex. B, LULAC Decl. ¶¶ 14–20.

Additionally, LWVFL has a substantial number of out-of-state volunteers, including many "snowbirds" who reside in Florida part-time and assist with petition gathering during their stay. Ex. A, LWVFL Decl. ¶ 32. LWVFL also intended to seek support from volunteers affiliated with other state Leagues to help collect petitions in Florida. *See id.*

The cases Defendants cited at the May 22 preliminary hearing are inapposite. *Biddulph v. Mortham*, 89 F.3d 1491, 1493 (11th Cir. 1996), involved petition formatting requirements, while *Initiative and Referendum Institute v. Walker*, 450 F.3d 1082, 1086 (10th Cir. 2006), concerned supermajority voting thresholds—neither restricted *who* could speak. The *Buckley* Court distinguished the *Biddulph* regulation because it had nothing to do with restricting who could speak, but merely "protect[ed] the integrity and reliability of the initiative process" through formatting rules that helped "fairly present the proposition" to voters. *Buckley*, 525 U.S. at 191–92 (citing *Biddulph*, 89 F.3d at 1494). And the court in *Walker* differentiated the supermajority requirement from the speech restrictions at issue in *Buckley* and *Meyer* by noting that restrictions in those cases "specifically regulated the process of advocacy itself: the laws dictated *who* could speak (only volunteer

circulators and registered voters) or *how* to go about speaking (with name badges and subsequent reports)." *Walker*, 450 F.3d at 1099. By contrast, the Eligibility Restrictions here directly regulate who can speak and reduce the quantum of speech on critical issues, targeting core political speech protected by the First Amendment.

Undue burden on association: The rights to free speech and association closely "overlap," and "the Court has acknowledged the importance of freedom of association in guaranteeing the right of people to make their voices heard on public issues." *Citizens Against Rent Control/Coal. for Fair Housing v. City of Berkeley*, 454 U.S. 290, 295, 300 (1981). Thus, "[e]ffective advocacy of both public and private points of view, particularly controversial ones is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly." *NAACP v. Alabama*, 357 U.S. 449, 460 (1958). And, when considering the constitutionality of regulations that restrict "core political speech or imposes 'severe burdens' on speech or association," the Court generally requires that a law be narrowly tailored to serve a compelling state interest." *Buckley* , 525 U.S. at 206 (Thomas, J., concurring).

Just as with speech, the Law creates a substantial chilling effect on the right to association. Noncitizen and nonresident volunteers and members of LWVFL and LULAC are unable to participate in petition circulation. See Ex. A, LWVFL Decl.

¶¶ 32–34 ; Ex. B, LULAC Decl. ¶¶ 14, 17, 19. As a result, the organizations cannot associate with these members for petition activities. This is precisely the kind of unconstitutional infringement the Court has rejected:

> When it comes to the freedom of association, the protections of the First Amendment are triggered not only by actual restrictions on an individual's ability to join with others to further shared goals; the risk of a chilling effect on association is enough, "[b]ecause First Amendment freedoms need breathing space to survive."

Ams. for Prosperity Found. v. Bonta, 594 U.S. 595, 618–19 (2021) (quoting *NAACP v. Button*, 371 U.S. 415, 433 (1963)).

Exacting scrutiny is the appropriate test: Exacting scrutiny applies to the noncitizen and non-resident restrictions because the burdens on core political speech that they impose are more than minimal. *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334, 348 (1995) (applying exacting scrutiny to burdens on core political speech); *Ams. for Prosperity Found.*, 594 U.S. at 607 (applying exacting scrutiny in compelled disclosure case); *Biddulph* , 89 F.3d at 1498, n.9 (equating exacting scrutiny and strict scrutiny, and noting that exacting scrutiny, as articulated in *Meyer* and *McIntyre*, applies where "initiative process substantially restricts political discussion of the issue" to be "put on the ballot"). As for nonresident petition circulator restrictions, courts have also applied exacting scrutiny. *See Krislov v.*

Rednour, 226 F.3d 851, 862 (7th Cir. 2000) (law prohibiting use of nonresident petition circulator "must withstand exacting scrutiny"); *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 316–17 (4th Cir. 2013) (holding petition-circulator residency requirement failed strict scrutiny).

These provisions fail exacting scrutiny: "Exacting scrutiny" demands that the law must be narrowly tailored to the government's stated interest. *Bonta*, 594 U.S. at 608; *Meyer*, 486 U.S. at 424. At a minimum, exacting scrutiny requires "a substantial relation between the [law] and a sufficiently important governmental interest." *Bonta*, 594 U.S. at 611.

The State claims a broad interest in preventing fraud and ensuring ballot integrity. Defs.' Opp. First Prelim. Inj. of FHD and S&S, ECF No. 105. There is, however, no substantial connection between these interests and the sweeping bans on noncitizens and nonresident petition circulators. In fact, courts have found that such blanket prohibitions do not further these interests, especially where noncitizen and out-of-state volunteers have circulated petitions for years.[2]

[2] *See We the People PAC v. Bellows*, 40 F.4th 1 (1st Cir. 2022); *Wilmoth v. Sec'y of N.J.*, 731 F. App'x 97 (3d Cir. 2018); *Judd*, 718 F.3d at 308; *Krislov*, 226 F.*3d at 851; Nader v. Brewer,* 531 F.3d 1028 (9th Cir. 2008); *Chandler* v. *City of Arvada*, 292 F.3d 1236 (10th Cir. 2002); *Yes On Term Limits, Inc. v. Savage*, 550 F.3d 1023 (10th Cir. 2008).

The State could also achieve its goals through more narrowly tailored means. Preexisting law imposes harsh fines and criminal penalties, and paid petition circulators must register a Florida address for service of process and consent to Florida courts' jurisdiction. Moreover, there is no evidence that nonresident circulators disproportionately submit invalid signatures. *See Savage*, 550 F.3d at 1030 (rejecting notion that nonresidents "as a class" engage in fraudulent activity to a greater degree than resident circulators); *Nader*, 531 F.3d at 1037 (same). As the Seventh Circuit observed, "a resident would likely be at the same risk of obtaining an invalid signature . . . as would a non-resident." *Krislov*, 226 F.3d at 865.

(ii) The Noncitizen Provision violates the Equal Protection Clause and cannot withstand strict scrutiny.

The Supreme Court has long held that the Equal Protection Clause protects noncitizens. *See Sugarman v. Dougall*, 413 U.S. 634, 641 (1973) ("an alien is entitled to the shelter of the Equal Protection Clause"); *Estrada v. Becker*, 917 F.3d 1298, 1308 (11th Cir. 2019) (same). "As a general matter, a state law that discriminates on the basis of alienage can be sustained only if it can withstand strict judicial scrutiny." *Bernal v. Fainter*, 467 U.S. 216, 219 (1984); *Sugarman*, 413 U.S. at 642; *Bernal*, 467 U.S. at 227–28 (applying strict scrutiny to Texas statutory requirement preventing noncitizens from becoming notaries public). Here,

noncitizens are subject to this provision for the simple reason that they are noncitizens Ex. A, LWVFL Decl. ¶¶ 32–35; Ex. B, LULAC Decl. ¶¶ 16–18.

This Court has struck down Florida's blanket ban on noncitizens collecting or handling voter registration applications for third-party voter registration organizations. *Fla. State Conf. of Branches and Youth Units of the NAACP v. Byrd*, 680 F. Supp. 3d 1291, 1322 (N.D. Fla. 2023); *Hisp. Fed'n v. Byrd*, 719 F. Supp. 3d 1236, 1242–43 (N.D. Fla. 2024). In its analysis, this Court previously found the "political function" exception to strict scrutiny inapplicable, first because the law did not "indiscriminately sweep within its ambit a wide range of offices and occupations," but instead targeted only one specific activity—registering others to vote. *Id.* at 1312. And second, this Court found that this function did not require exercising broad discretionary power over public policy or core governmental functions, which is the hallmark of the political function exception. *Id.* at 1312–13.

Similarly, the political function exception does not apply here. HB 1205 bars noncitizens from circulating petitions yet does not exclude them from other petition-related roles, such as verifying petitions at Supervisors' offices or handling petitions at the Division of Elections. Nor does the act of gathering petitions involve core governmental authority.

Thus, strict scrutiny applies, and the classification must be narrowly tailored to furthering a compelling interest. Yet, Florida's justifications—preventing fraud and preserving integrity—are not advanced by a total ban on noncitizens. There is no evidence that their participation threatens the process. As in *Florida NAACP*, "sound election laws ensure the people are heard without distortion from negligent and bad-faith actors" but "Florida's solutions for preserving election integrity are too far removed from the problems it has put forward as justifications." *Id* at 1322–23. "Such shoddy tailoring between restriction and government interest presents a dubious fit under rational basis review, and it falls woefully short of satisfying the strict scrutiny." *Id.* at 1322. Similarly, the lack of tailoring here requires invalidating the Noncitizen Provision.

2. Definition Provision and Personal Use Restriction

The new Law broadens the definition of "petition circulator" beyond those who are "compensated," to include *any individual*, regardless of whether the person is a volunteer or a paid circulator, "who collects, delivers, or otherwise physically possesses" more than "25 signed petition forms in addition to his or her own signed petition form or a signed petition form belonging to the person's" family member, *i.e.*, a spouse, parent, child, grandparent, grandchild sibling, or sibling's spouse ("Definition Provision"). Fla. Stat. § 100.371(4)(a). And it exposes anyone who

collects more than the 25 petitions and is not registered as a petition circulator under § 100.371(4)(a) to a felony liability. Fla. Stat. § 104.188(2). Not only that, the Law requires every petition distributed by non-circulators to include a notice that it is "a third-degree felony" if they "collect, deliver, or otherwise physically possess more than 25 signed petitions forms in addition to [the volunteer's] own or those of [the volunteer's] family member" ("Personal Use Restriction"). Fla. Stat. § 100.371(3)(e).

(i) These provisions impede Plaintiffs' free speech and associational rights and cannot withstand exacting scrutiny.

Undue burden on speech: The Supreme Court in *Buckley* found unconstitutional state laws that unduly regulate petition circulation, such as requiring petition circulators to display identification badges when circulating initiative or referendum proposals. 525 U.S. at 188. The Court emphasized that such measures "discouraged participation in the petition circulation process by forcing name identification without sufficient cause." *Id.* As detailed in Plaintiffs' declarations, having to register as petition circulators and publicly identify oneself on each petition form discourages participation in the process altogether and has already had a severe chilling effect: Individual Plaintiffs, as well as other volunteers, have stopped petition gathering in response to the Law. Ex. A, LWVFL Decl. ¶¶ 36–40;

Ex. B, LULAC Decl. ¶¶ 22–24; Ex. D, Scoon Decl. ¶¶ 15–18; Ex. C Chandler Decl. ¶¶ 24, 26–27.

The Supreme Court has recognized that laws requiring individuals to obtain government permission before speaking suppress free expression. *Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton*, 536 U.S. 150, 154 (2002) (striking down ordinance requiring door-to-door canvassers to obtain a permit from the government). That Plaintiffs' volunteers and Individual Plaintiffs Scoon and Chandler must now register with the Secretary of State to circulate more than 25 petitions is "offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so." *Id.* at 165–66.

The *Watchtower* Court noted that among the "pernicious effects" of having to first obtain the government's permission before speaking is to silence advocacy by persons who, despite their "firm convictions," would "prefer silence to speech licensed by a petty official." *Id.* at 167. As in *Watchtower*, here many LWVFL volunteers and members who share firm convictions about expanding Medicaid and promoting clean water would rather not collect petitions at all under HB 1205's

proposed limitations and in fact have stopped. Ex. A, LWVFL Decl. ¶¶ 36–37; Ex. C, Chandler Decl. ¶¶ 24, 28 Ex. D, Scoon Decl. ¶¶ 15–18.

The Court in *Watchtower* also highlighted the "significant amount of spontaneous speech that is effectively banned" by the requirement that speakers first obtain governmental permission. 536 U.S. at 167–68. Plaintiffs participate in petition collection because it allows them to speak spontaneously with voters about important issues and persuade voters to support those issues. Ex. A, LWVFL Decl. ¶¶ 13, 27. Plaintiff Chandler often carries at least 30 petitions but—like the canvassers in *Watchtower*—Chandler cannot engage in 30 conversations about signing a petition form without first registering with the state. Ex. C., Chandler Decl. ¶¶ 6, 35. This restriction stifles the very kind of spontaneous political participation the First Amendment is meant to protect.

Undue burden on association: The Supreme Court has invalidated laws like these that criminalize associational activities. *See, e.g.*, *NAACP v. Button*, 371 U.S. 415, 435–36 (1963) (striking down statute criminalizing non-profits' ability to recruit plaintiffs for litigation). As in *Button*, the 25-petition limit and accompanying third-degree felony penalties for possessing more than 25 signed petitions from non-family members without registering chill the advocacy and volunteer mobilization efforts of LWVFL and LULAC regarding ballot initiatives. The impact on Plaintiffs

has been immediate and widespread—each stopped collecting petitions or plans to cease petition collection after July 1.

These provisions fail exacting scrutiny: The State's primary interest, it claims, is to prevent "fraudsters" from exploiting the petition circulation process, but this goal can be accomplished through less restrictive alternatives that do not impose such heavy burdens on volunteers or inhibit their ability to engage in spontaneous speech without fear of criminal prosecution. In fact, Supervisors already verify every signature for authenticity. Furthermore, the State already has the authority to prosecute volunteers who commit petition-related fraud. By restricting volunteers from collecting more than 25 petitions without registering, the State effectively destroys the volunteer-driven petition process—which relies on spontaneous and informal interactions with voters—thereby undermining the nature of grassroots advocacy.

(ii) These provisions create a 25-petition cap that is both vague and overbroad, violating the Due Process Clause and the First Amendment.

The provisions are unconstitutionally vague: An "unconstitutionally vague" law violates due process when "its prohibitions are not clearly defined" such that ordinary people cannot decipher what conduct it prohibits and encourages arbitrary and discriminatory enforcement. *Dream Defs. v. Governor of Fla.*, 119

F.4th 872, 878 (11th Cir. 2024); *HM Fla.-ORL, LLC v. Governor of Fla.*, No. 23-12160, 2025 WL 1375363, at *13 (11th Cir. May 13, 2025) ("Laws without discernible standard threaten enforcement that is 'impermissibly based on content or viewpoint.'") (citing *Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1221 (11th Cir. 2017). In assessing a vagueness challenge to a state law, courts do not ask "whether there is *any* reading that would render the statute constitutional," but rather whether there is a reading "that is both *reasonable* and *readily apparent*, and, thus, does not require th[e] Court to rewrite the statute." *Fla. State Conf. of Branches & Youth Units of the NAACP v. Byrd*, 680 F. Supp. 3d 1291, 1315 (N.D. Fla. 2023). When vague laws impinge First Amendment rights and carry criminal penalties, vagueness is of "greater concern." *Dream Defs.*, 119 F.4th at 879; see also *NAACP v. Button*, 371 U.S. at 432 (noting "standards of permissible statutory vagueness are strict in the area of free expression"); *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253–54 (2012) (emphasizing that when First Amendment implicated, "rigorous adherence to those [due process] requirements is necessary to ensure that ambiguity does not chill protected speech").

The Definition Provision and Personal Use Restriction fail to make clear to an ordinary person how the 25-petition threshold works. First, the lack of a time period or context leaves LWVFL and LULAC volunteers to wonder if they are

limited to collecting 25 signed petitions at one time, per day, per year, per cycle, or over the course of their lifetimes. Second, volunteers cannot be sure if they are limited to collecting 25 signed petitions for a single campaign or if they are permitted to collect 25 signed petitions for multiple campaigns. These ambiguities leave LWVFL and LULAC volunteers to speculate as to what kind of petition activity is permissible under the Law.

This vagueness is especially troubling because it affects core First Amendment activities and exposes individuals to significant criminal penalties if volunteers circulate petitions without complying with the Law's numerous new requirements. If an individual falls into the "petition circulator" category, they must register with the state, disclose personal information, undergo mandatory training, and submit affidavits along with each petition they collect—facing felony charges if they fail to comply. Those who stay under the 25-petition threshold avoid these obligations, but the provision's ambiguous language makes it unclear what counts as 25 petitions in this context. LWVFL and LULAC volunteers must therefore either risk felony liability if they want to participate in the petition process without registering, or, more likely, "steer far wider of the unlawful zone' to avoid the law's unclear boundaries." *Keister v. Bell*, 29 F.4th 1239, 1258–59 (11th Cir. 2022) (citing *Grayned*, 408 U.S. at 108).

The provisions are unconstitutionally overbroad: The Law's vagueness problems are compounded because the Definition and Personal Use provisions are also overbroad. "Overbreadth[] permits 'facial invalidation' of a speech law whose 'unconstitutional applications . . . [are] substantially disproportionate to the statute's lawful sweep." *HM Fla.-ORL, LLC v. Governor of Fla.*, No. 23-12160, 2025 WL 1375363, at *12 (11th Cir. May 13, 2025) (quoting *U.S. v. Hansen*, 599 U.S. 762, 770 (2023)). In other words, an overbreadth challenge hinges on whether the challenged law "prohibits a substantial amount of protected speech relative to its plainly legitimate sweep." *Id.* Vague laws often also pose issues of overbreadth. *HM Fla.-ORL*, 2025 WL 1375363, at *12 ("[V]ague statutory language exacerbates overbreadth concerns."). That is because a vague statute "can lead those whose protected speech the statute may not in fact prohibit to silence themselves anyway, effectively increasing the statute's range of impermissible applications." *Id.*

The vague threshold set by the Definition and Personal Use Provisions works to silence a broad swath of the petition circulation activity that would otherwise occur. And the vague terms of the 25-petition threshold provisions may mean that many more individuals who are operating below that threshold will stop their petition circulation activities because they cannot be sure what conduct is prohibited by the Law. Indeed, Individual Plaintiffs have ceased collecting petitions altogether

to steer clear of any potential violations. Scoon Decl. ¶¶ 15–18; Ex. C Chandler Decl. ¶¶ 24, 26–27. The Provisions have therefore had the effect of silencing the speech of Floridians that would otherwise be exercising their rights. This is exactly the kind of widespread "chilling effect" on protected speech that the First Amendment prohibits.

3. Registration, Disclosure, and Affidavit Requirements

As discussed above, any person who wishes to collect more than 25 signed petition forms in addition to his or her own signed petition form" or certain family members' petition forms must submit a registration application with the state ("Registration Requirement"). Fla. Stat. § 100.371(4)(a). As part of that registration, they must furnish a host of sensitive and personal information to the State ("Disclosure Requirements"), including name, address, date of birth, Florida driver's license or identification card number, and the last four digits of their social security number, *id.* § 100.371(4)(c)(2); disclose citizenship status, residency, and felony convictions, id. § 100.371(4)(c)(6)–(8); and affirm that they commit a crime for "false swearing," *id.* § 100.371(4)(c)(9).[3] On top of that, any individual registered

[3] The Law is still ambiguous, but it appears that volunteers might be required to re-register with the State for every initiative they support. If this is the case, it would impose significant burdens on the Plaintiffs and discourage them from participating in petition collection altogether.

as a petition circulator must provide their name and permanent address on each petition form that they collect ("Affidavit Requirement"). Fla. Stat. § 100.371(3)(d).

(i) These provisions impede Plaintiffs' First Amendment rights to free speech and free association and cannot withstand exacting scrutiny.

Undue burden on speech: These requirements are extremely burdensome on volunteer petition gatherers like Plaintiffs. Indeed, they "discourage" Plaintiffs from participating altogether and effectively diminish the total quantum of speech. *See Buckley v. ACLF*, 525 U.S. at 188; *Meyer*, 486 U.S. at 423.

Not only that. These provisions offend another well-recognized First Amendment principle: the right to speak anonymously in support of a cause. *See Talley v. California*, 362 U.S. 60, 64 (1960) ("Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind" and "[p]ersecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all"). For the many people "who support causes anonymously" state regulations that threaten disclosure are an impediment to speech. That was of central concern in *McIntyre*, where the Court invalidated a law that prohibited anyone from anonymously distributing unsigned leaflets or handbills—the Court recognized that a person's "decision in favor of anonymity may be motivated by fear of economic or official

retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible." *McIntyre*, 514 U.S. at 341–42; *see First Nat. Bank of Boston v. Bellotti*, 435 U.S. 765, 776–77 (1978) (speech on income tax referendum "is at the heart of the First Amendment's protection").

Requiring volunteers who collect more than 25 petitions to register with the State, disclose extensive personal information under threat of criminal penalties, and include their name and permanent address on every petition directly undermines the right to speak anonymously—especially on controversial issues. This concern is heightened because registration records are public; any citizen can challenge a circulator's registration in court, Fla. Stat. § 100.371(9)(d), and each petition becomes a public record upon receipt, Fla. Stat. § 100.371(3)(a)(4)). As a result, anyone can easily access a volunteer's personal details and link them to the cause they support. This exposure creates a significant risk of harassment and physical harm, fails to protect volunteer anonymity, and has a chilling effect on participation.

Returning to *Watchtower*, the Court in that case found that the local permitting ordinance that it struck down "necessarily result[ed] in a surrender of . . . anonymity." 536 U.S. at 166. And in *Buckley*, the Court recognized that the badge requirement "compels personal name identification at the precise moment when the circulator's interest in anonymity is greatest." 525 U.S. at 199. Those same concerns

apply to the Registration, Disclosure, and Affidavit Provisions at issue here. And arguably, a volunteer's interest in anonymity is greater here than it was in *Buckley*, where there was no threat of public disclosure.

Undue burden on association: Disclosure requirements such as these also burden the right to associate. In the context of compelled disclosure requirements, the Supreme Court struck down a California requirement that charities disclose the names of major donors to the state, finding that such compelled disclosure could chill association by exposing supporters to potential harassment or reprisal. *Bonta*, 594 U.S. at 606. Similarly, the provisions at issue here function as intimidating disclosure mandates that open volunteers up to potential harassment and threats of violence by forcing them to disclose their address on a public form to register as a circulator.

These provisions fail exacting scrutiny: Finally, there is no substantial relation between the State's goal of preventing "fraudsters" from circulating petitions and the burdensome Registration, Disclosure, and Affidavit requirements—especially for volunteer circulators, who have no incentive to commit fraud. As described, the State already has multiple tools to address fraudulent petition activity. Forcing volunteers to comply with these requirements and publicly

reveal personal information like their name and permanent address in connection with a cause is not narrowly tailored to furthering the State's interest.

B. Plaintiffs Continue to Suffer Irreparable Harm Without an Injunction.

Plaintiffs will continue to suffer irreparable harm caused by the Law. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Both the Supreme Court and the Eleventh Circuit have reiterated this principle on numerous occasions. *See Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14 (2020); *Otto* , 981 F.3d at 870 (concluding that enforcing statutes "for even minimal periods of time" that penalize protected speech "constitutes a per se irreparable injury") (quoting *Cate v. Oldham*, 707 F.2d 1176, 1188 (11th Cir. 1983)); *FF Cosmetics FL, Inc. v. City of Miami Beach*, 866 F.3d 1290, 1298 (11th Cir. 2017) ("[A]n ongoing violation of the First Amendment constitutes an irreparable injury."); *KH Outdoor, LLC*, 458 F.3d at 1272 (11th Cir. 2006) (noting it is "well established" that loss of First Amendment freedoms, even if temporary, embodies irreparable harm).

The mere threat of criminal prosecution also constitutes irreparable harm for purposes of a preliminary injunction. *See e.g.*, *ABC Charters, Inc. v. Bronson*, 591 F. Supp. 2d 1272, 1309 (S.D. Fla. 2008) (Gold, J.) (the threat of criminal prosecution

of third-degree felony constitutes irreparable harm); *Fla. Businessmen for Free Enter. v. City of Hollywood*, 648 F.2d 956, 958 (5th Cir. 1981) (continuing to do business as usual pending a decision on the merits, while facing a threat of prosecution, constitutes irreparable injury); *Edgar v. MITE Corp.,* 457 U.S. 624, 651 (1982) ("[a]n individual who is imminently threatened with prosecution for conduct that he believes is constitutionally protected should not be forced to act his peril.").

The provisions of the Law challenged herein irreparably harm Plaintiffs by chilling their speech and subjecting them criminal penalties for the violation of vague and overbroad provisions. *See infra* Section II. Plaintiffs also face significant reputational harm: LWVFL and LULAC will both suffer harms to their reputations if they or their members accidentally violate HB 1205, because it will diminish their image as reliable and respected grassroots organizations and deter other organizations from wanting to work with them. Ex. A, LWVFL Decl. ¶ 44.

C. The Balance of Hardships and the Public's Interest Weigh in Favor of a Preliminary Injunction.

The balance of hardships and the public interest both support granting a preliminary injunction. *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020) (considering factors together when plaintiff seeks emergency relief). The equities in this case, as well as the public interest, clearly favor Plaintiffs, and

granting the requested relief would not harm Defendants and would further the public good. Indeed, "neither the government nor the public has any legitimate interest in enforcing unconstitutional laws." *Id.*; *see also KH Outdoor, LLC*, 458 F.3d at 1272.

II. PLAINTIFFS HAVE ARTICLE III STANDING.

Plaintiffs can demonstrate proper standing to bring these claims because (1) they have suffered an injury-in-fact that is (2) traceable to Defendants and (3) redressable by a favorable ruling. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). For each plaintiff, a case or controversy exists as to each challenged provision. *CAMP Legal Def. Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1273 (11th Cir. 2006). [4]

A. Plaintiffs Have Suffered an Injury-in Fact.

1. Eligibility Requirements

HB 1205's wholesale exclusion of noncitizens and non-Florida residents is devastating to Plaintiffs' petition gathering efforts. LULAC and LWVFL volunteers and members lack US citizenship or reside out of state; both groups play an

[4] This Court has ample experience with standing doctrine, so Plaintiffs do not extensively recite the relevant standards for individual, organizational, and associational standing here.

important role in Organizational Plaintiffs' operations. Ex. A, LWVFL Decl. ¶¶ 32–33 (the League relies on members who are "snowbirds" and split their time between Florida and another state, members of other state Leagues, and volunteers from Canada); Ex. B, LULAC Decl. ¶¶ 7, 15 –18 (LULAC has members who are not U.S. citizens but participated in collecting petitions for the Restoration of Voting Rights Initiative and also collected petitions for the Medicaid Expansion Initiative). Under HB 1205, such individuals are prohibited from collecting petitions and as a result would have standing to challenge the Law, as would the organizations they belong to. *See Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977) (organization may assert standing on behalf of individual members).

Limiting Plaintiffs' volunteer base also harms the organizations by cutting them off from communities that they would otherwise be able to reach. Ex. A, LWVFL Decl. ¶ 35 (the League has relied on noncitizen volunteers from Florida's Haitian and Cuban communities and by excluding noncitizens from the process, HB 1205 "severs the League's connections to these communities"); Ex. B, LULAC Decl. ¶¶ 18–19 (LULAC hoped to rely on its large noncitizen base to collect petitions in support of the Medicaid Expansion Initiative). *See Fla. Democratic Party v. Hood*, 342 F. Supp. 2d 1073, 1079 (N.D. Fla. 2004) ("An organization has standing to

challenge conduct that impedes its ability to attract members, to raise revenues, or to fulfill its purposes.").

2. Definition Provision and Personal Use Restriction

The "physically possesses" more than 25 petitions language that appears both in the Definition Provision and the Personal Use Restriction harms LWVFL and the Individual Plaintiffs. At the outset, 25 petitions is a miniscule cap when viewed in reference to the number of petitions volunteers collect, which can be hundreds at one event. Ex. A, LWVFL Decl. ¶ 27; Ex. C, Chandler Decl. ¶ 8; Ex. D, Scoon Decl. ¶ 8. Placing a cap like this on petition gathering therefore substantially limits the number of voters volunteers can reach.

The indeterminacy of the Personal Use Restriction language poses a headache of its own for the organizations. As described, the statute does not specify a timeframe over which volunteers may collect these petitions, nor does it specify how the 25-limit cap applies when volunteers collect petitions for multiple initiatives at the same time. As a result, LWVFL members are hesitant even to collect within the 25-petition limit out of concern they will accidentally commit a felony. Ex. A, LWVFL Decl. ¶ 30; Ex. C, Chandler Decl. ¶ 33; Ex. D, Scoon Decl. ¶ 20. This problem has resulted in at least some members considering sitting out of petition gathering altogether out of fear of potential liability. LWVFL Decl. ¶ 31 This is

especially so for volunteers with professional licenses. Chandler Decl. ¶ 34 (concerned about losing her law license).

The Definition Provision harms Plaintiffs Chandler and Scoon because both have collected hundreds of signed petitions in the past and have previously collected upwards of 25 petitions in a single day. Scoon Decl. ¶ 8; Chandler Decl. ¶ 10. And like other League volunteers, they are unsure as to the meaning of "physically possesses no more than 25 petitions," and therefore do not know how many signed petitions they can collect over a given period of time including in support of multiple initiatives at the same time. Scoon Decl.¶ 19-20; Chandler Decl. ¶ 33 ("Even as an attorney with over 40 years of experience, I have trouble understanding what [the Personal Use Restriction] requires"). As a result of these restrictions, neither Plaintiff Scoon nor Plaintiff Chandler plans to register as petition circulators or collect any petitions if HB 1205 goes into effect. Chandler Decl. ¶ 40; Scoon Decl. ¶ 24.

3. Registration, Disclosure, and Affidavit Requirements

The Registration, Disclosure, and Affidavit requirements will also cause significant harm to the organizations. Neither LWVFL nor LULAC use paid circulators. *See* Ex. A, LWVFL Decl. ¶ 10; Ex. B, LULAC Decl. ¶ 6. Instead, they rely entirely on volunteers to collect petitions. *Id.* In previous cycles, volunteers were

permitted to collect unlimited petitions without registering, and often collected over 25 petitions a day. Ex. A, LWVFL Decl. ¶¶ 27–28; Ex. D, Scoon Decl. ¶ 8; Ex. C, Chandler Decl. ¶ 38. This enabled organizations like LWVFL to play instrumental roles in helping place initiatives like Rights Restoration and Reproductive Freedom on the ballot. Ex. A, LWVFL Decl. ¶ 11.

But now, under HB 1205, volunteers must register as petition circulators if they wish to collect upwards of 25 signed petitions from non-family members. As discussed, volunteers are hesitant to register, because: (1) they must give the State their personal details— such as name, address, and Social Security number, and (2) they must print their names and addresses on every petition form (a public document) just to advocate for causes and collect signatures. Ex. A, LWVFL Decl. ¶ 19; Ex. B, LULAC Decl. ¶ 26; Ex. C, Chandler Decl. ¶ 35. This exposes volunteers and members to potential harassment and physical threats. *See* Ex. A, LWVFL Decl. ¶ 24; Ex. B LULAC Decl. ¶ 23; Ex. C, Chandler Decl. ¶¶ 24–30 (describing invasion of privacy concerns related to name, address, and affiliation with political causes); Scoon Decl. ¶ 16. LULAC also has members hailing from "mixed status" households (i.e., households with both citizens and noncitizens), and these individuals will not participate in petition gathering because of the potential for harassment of friends and relatives without U.S. citizenship. Ex. B, LULAC Decl. ¶ 23.

4. Direct Injury and Diversion of Organizational Resources

Organizational Plaintiffs have had to divert significant resources because of the above provisions. To educate volunteers about them, Organizational Plaintiffs have been forced to devote time and resources to develop trainings on the law's requirements and respond to calls, texts, and emails from concerned volunteers. Ex. B, LULAC Decl. ¶¶ 24, 36; Ex. A, LWVFL Decl. ¶¶ 26, 45, 46; Chandler Decl. ¶ 35. This has forced Organizational Plaintiffs to pivot away from other pressing organizational priorities. Ex. B, LULAC Decl. ¶ 26; Ex. A, LWVFL Decl. ¶¶ 46–48. LWVFL has also lost precious volunteer hours which will ultimately impact its ability to obtain funding for its core activities. Ex. A, LWVFL Decl. ¶ 45.

5. Provisions Raised in FDH's and SSF's First Motion for Preliminary Injunction

Plaintiffs also have standing to challenge the provisions of HB 1205 at issue in FDH's and SSF's First Motion for a Preliminary Injunction. Hr'g on Pls. Mtn. for Prelim. Inj. at 116:12-24, ECF No. 32 (Defendants suggesting Plaintiffs cannot establish standing to challenge these provisions).

Ten-day return limit: HB 1205's requirement that petitions be submitted to Supervisors within 10 days of a voter signing a petition form imposes a significant burden on the League. "When the League collects petitions, it engages in a rigorous compliance review to ensure that petition forms are filled out accurately and in

conformance with existing requirements." First LWVFL Decl. ¶ 25, ECF No. 93-1 (Decl. of Cecile Scoon on behalf of LWVFL). When the deadline was 30 days from signature, such compliance checks were possible; at ten days, it simply is not. *Id.* at ¶ 26. This deadline will therefore "guarantee that the League will be forced to turn in at least some petition forms that are incomplete or incorrectly completed." *Id.* Under HB 1205's Investigation Provision, each invalid form the League returns increases the likelihood that the League and its partners will be investigated by the Office of Election Crimes. This will similarly make it very difficult for LWVFL to carry out its mission.

Severe Punitive Fines: As discussed, League volunteers regularly collect upwards of 25 petition forms from non-family members, sometimes in a single day. Ex. A, LWVFL Decl. ¶¶ 27–28; Ex. D, Scoon Decl. ¶ 8; Ex. C, Chandler Decl. ¶ 38. For these volunteers to continue collecting petitions at this rate, they must now register as circulators. If one of those circulators returns a form late, the sponsor will incur a fine. As described in the League's first declaration, "the League highly values its relationships with petition sponsors and does everything it can to maintain its reputation as a trusted source of grassroots support in citizen-initiative campaigns. If sponsors incur substantial fines because of forms returned late by the League's volunteers, that will damage relationships and limit sponsors' willingness to work

with the League." First LWVFL Decl. at ¶18, ECF No. 93-1. This will "perceptibly impair" the League's "ability to carry out its mission," and is therefore a constitutionally cognizable injury. *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 11 F.4th 1266, 1287 (11th Cir. 2021) (finding organization had standing to challenge law allegedly infringing its First Amendment rights) (quoting *Havens*, 455 U.S. at 379) (cleaned up).

Vague Criminal Provisions: Finally, HB 1205's vague criminal provisions also harm the League. The Law's prohibition on filling in "missing information" on a signed form applies to anyone working "on behalf of a sponsor of an initiative." LWVFL has helped people with vision impairment fill out their petition forms, but the new Law exposes volunteers to criminal liability for filling in missing information. First LWVFL Decl. ¶ 21, ECF No. 93-1. Likewise, the Law's vague definition of "election irregularities" applies equally to League members as it does to petition sponsors or their employees, and could conceivably apply to a host of conduct, including turning in incomplete or incorrect petition forms. Ex. A, LWVFL Decl. ¶ 50. The criminal penalties imposed on any entity or individual who "retains personal information, such as" names or driver's license numbers of petition signers are vague as well. *Id.* LWVFL prefers to maintain lists of names to notify individuals who may have inadvertently signed a petition more than once; it is unclear whether

this constitutes the retention of personal information *Id.* It is also unclear what "retains" actually means, or whether holding petition forms for the 10-day period—if not done on behalf of the sponsor—would subject someone to penalties. *Id.*

6. Cumulative Impact

Collectively, these provisions have already begun to erode the volunteer base of LULAC and LWVFL. As LWVFL co-president Debra Chandler notes, petition gathering is already a demanding task, often requiring hours of work in difficult conditions. Chandler Decl.¶ 19. These new restrictions are likely to drive even the most dedicated volunteers to quit. Chandler Decl. ¶ 21. The cumulative effect of HB 1205's unnecessary requirements is that they may push volunteers—already stretched thin—out of the process entirely. Neither LULAC nor LWVFL can operate without their volunteers.

B. Causation and Redressability

The harms are directly traceable to Defendants and redressable by an injunction against them. Here, each Defendant is directly responsible for implementing and/or enforcing some aspect of the new Law that chills Plaintiffs' petition gathering activity. *See* Fla. Stat. § 97.0575(8); Fla. Stat. § 100.371(4)(a)(g) (Secretary of State administers the Registration Requirement, imposes fines, and refers perceived violations of the Law to Attorney General); Fla. Stat. § 104.187;

Fla. Stat. § 104.188(2) (The Attorney General and the State Attorneys enforce the challenged criminal provisions); Fla. Stat. § 100.371(6)–(12) (Supervisors of Election responsible for verifying petition forms and petition signatures and referring "invalid" forms for investigation, among other things). Enjoining Defendants from implementing and enforcing the new Law has the "practical consequence" of stopping Defendants from imposing the significant burden and threat of criminal sanctions on Plaintiffs engaging in the petition initiative process. *See e.g.*, *Utah v. Evans*, 536 U.S. 452, 464 (2002).

CONCLUSION

For these reasons, the Court should grant a preliminary injunction in favor of all Plaintiffs with respect to the challenged provisions in this Motion. Additionally, any relief granted to the FDH and S&S Plaintiffs on their First Preliminary Injunction Motion should also be extended to Plaintiffs here.

Dated: June 2, 2025

Respectfully submitted,

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* *Pro hac vice* applications forthcoming
** *Pro hac vice granted*
Counsel for All Plaintiffs

LOCAL RULE 7.1(F) CERTIFICATION

The undersigned counsel certifies that this Motion contains 7,796 words, excluding the case style, signature block and certifications.

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the counsel of record in this case.

s/ Pooja Chaudhuri
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(D.C. Bar No. 888314523)