No. 26-11906

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Florida Decides Healthcare, Inc., et al.,
Plaintiffs-Appellants,

v.

Florida Secretary of State, et al.,
Defendants-Appellees.

United States District Court for the Northern District of Florida, No. 4:25-cv-00211-MW-MAF (Walker, J.)

DEFENDANTS-APPELLEES FLORIDA SECRETARY OF STATE AND FLORIDA ATTORNEY GENERAL'S ANSWER BRIEF

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Eleventh Circuit Rule 26.1-1, Defendants-Appellees Florida Secretary of State and Florida Attorney General incorporate by reference their Certificate of Interested Persons filed on June 30, 2026. 26-11906, Doc.80. Defendants-Appellees add the following who entered an appearance after Defendants-Appellees filed their Certificate of Interested Persons:

1. Huppert, Matthew, *Attorney for Plaintiffs-Appellants*

Pursuant to Eleventh Circuit Rule 26.1-1, Defendants-Appellees Florida Secretary of State and Florida Attorney General certify that they have no publicly traded company or corporation that has an interest in the outcome of the case or appeal.

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Dated: October 13, 2026

/s/ William H. Stafford III
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STATEMENT REGARDING ORAL ARGUMENT

Oral argument is appropriate. This appeal concerns how the First and Fourteenth Amendments apply to Florida's regulation of the citizen-initiative process.

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PRELIMINARY STATEMENT

I. This brief uses the following citation conventions:

- "Doc." citations refer to docketed documents in the district court, Case No. 4:25-cv-00211-MW-MAF. The accompanying page numbers are the blue page numbers on the upper-right side of the docketed documents.

- Transcript citations use the page and line numbers assigned by the court reporter, followed by the testifying witness unless the context makes the speaker clear. For example, "Tr.2012:21-2013:8 (Matthews)."

- Plaintiffs' exhibits are cited by the Plaintiff's name and the exhibit number. For example, "RTCW 170." Defendants' exhibits are cited by "DX" and the exhibit number. For example, "DX 1."

- "FDH" refers to Plaintiffs in the complaint where Florida Decides Healthcare is the lead Plaintiff; "RTCW" similarly refers to the Right to Clean Water Plaintiffs; and "League" refers to the League of Women Voters Plaintiffs.

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II. Below, four sets of Plaintiffs challenged thirty-eight provisions of the Florida Statutes enacted through House Bill 1205. *See* Doc.663 at 32-51 (collecting provisions). Plaintiff Smart & Safe didn't appeal. The remaining three sets of Plaintiffs have narrowed their focus on appeal; fifteen provisions remain at issue. The Attorney General and Secretary of State reproduce those provisions below, grouped under descriptive headings, along with the theories under which Plaintiffs seek relief.

A. Plaintiffs focus much of their briefs on the **Petition Circulator Eligibility** provisions. These concern who may collect and deliver signed petitions:

1. Florida Statutes § 97.021(28):

> (28) "Petition circulator" means an entity or individual who collects signatures ~~for compensation~~ for the purpose of qualifying a proposed constitutional amendment for ballot placement. The term does not include a person who collects, delivers, or otherwise physically possesses no 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 spouse, or the parent, child, grandparent, grandchild, or sibling of the person or the person's spouse.

RTCW and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

2. Florida Statutes § 100.371(4)(a):

> (4)(a) Beginning July 1, 2025, unless registered as a petition circulator with the Secretary of State and issued a petition circulator number, a person may not collect, deliver, or otherwise physically possess more than 25 signed petition forms in addition to his or her own signed petition form or a signed petition form belonging to an immediate family member. This paragraph may not be construed to prohibit a person from distributing petition forms designated for personal use as described in paragraph (3)(e). For the purposes of this subsection, the term "immediate family" means a person's spouse, or the parent, child, grandparent, grandchild, or sibling of the person or the person's spouse ~~signatures or initiative petitions for compensation unless the person is registered as a petition circulator with the Secretary of State~~.

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FDH, RTCW, and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

3. Florida Statutes § 100.371(4)(b)1:

> (b) A person may not collect signatures or initiative petitions if he or she:
>
> 1. Has been convicted of a felony violation and has not had his or her right to vote restored.

FDH and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

4. Florida Statutes § 100.371(4)(b)2:

> (b) A person may not collect signatures or initiative petitions if he or she:
>
> 2. Is not a citizen of the United States.

FDH, RTCW, and League Plaintiffs challenge this provision based on (1) First Amendment speech, (2) First Amendment association, and (3) equal protection.

5. Florida Statutes § 100.371(4)(b)3:

> (b) A person may not collect signatures or initiative petitions if he or she:
>
> 3. Is not a resident of this state.

FDH, RTCW, and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

6. Florida Statutes § 100.371(4)(c)1-2:

> (c)~~(4)~~ An application for registration must be submitted in the format required by the Secretary of State and must include the following:
>
> 1.~~(a)~~ The information required to be on the petition form under s. 101.161, including the ballot summary and title as received ~~approved~~ by the Secretary of State.
>
> 2.~~(b)~~ The applicant's name, permanent address, temporary address, if applicable, ~~and~~ date of birth, Florida driver license or Florida identification card number, and the last four digits of his or her social security number.

RTCW and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

7. Florida Statutes § 100.371(4)(f):

> (f) A person may not register to collect signatures or initiative petitions until he or she has completed the training concerning the requirements for petition circulators. The training must be developed by the division and must be in an electronic format available on the division's public website. The training must, at a minimum, include the following:
>
> 1. An overview of the petition-gathering process.
>
> 2. An overview of the petition circulator registration requirements.
>
> 3. An explanation that the sponsor of an initiative amendment serves as a fiduciary to each voter who signs a petition.
>
> 4. An explanation that the Florida Election Code prohibits compensation or provision of any benefit based on the number of petition forms gathered or the time within which a number of petition forms are gathered.
>
> 5. The specific criminal penalties to which a petition circulator may be subject for violating the Florida Election Code.

RTCW Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

8. Florida Statutes § 100.371(4)(g):

> (g) The sponsor of the initiative amendment is liable for a fine in the amount of $50,000 for each person the sponsor knowingly allows to collect petition forms on behalf of the sponsor in violation of this subsection.

FDH and RTCW Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

B. Plaintiffs also challenge several standalone **Fines** provisions:

1. Florida Statutes § 100.371(8):

> (8) If a person collecting petition forms on behalf of a sponsor of an initiative petition signs another person's name or a fictitious name to any petition, or fills in missing information on a signed petition, to secure a ballot position in violation of s. 104.185(2), the sponsor of the initiative petition is liable for a fine in the amount of $5,000 for each such petition.

FDH and RTCW Plaintiffs challenge this provision based on (1) First Amendment speech, (2) First Amendment association, and (3) substantive due process.

2. Florida Statutes § 100.371(10):

> (10) A sponsor of an initiative petition or a person collecting petition forms on behalf of a sponsor of an initiative petition may not mail or otherwise provide a petition form upon which any information about a voter has been filled in before it is provided to the voter. The sponsor of an initiative petition is liable for a fine in the amount of $50 for each petition form that is a violation of this subsection.

FDH Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

C. Plaintiffs challenge several **Criminal** provisions:

1. Florida Statutes § 100.371(9):

> (9) If a person collecting petition forms on behalf of a sponsor of an initiative petition copies or retains a voter's personal information, such as the voter's Florida driver license number, Florida identification card number, social security number, or signature, for any reason other than to provide such information to the sponsor of the initiative petition, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

FDH Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

2. Florida Statutes § 104.188(2):

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> (2) A person 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 an immediate family member, and who is not registered as a petition circulator pursuant to s. 100.371(4)(a), commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

3. FDH Plaintiffs also say that they're challenging Florida Statutes § 895.02(8)(d). But they mention this provision only once, in their Statement of the Issues. And it hasn't been in effect since July 1. *See* Ch. 2026-26, § 30, Laws of Fla. The district court dismissed the challenge to this provision as moot. *See* Doc.679 at 30-33.

D. Plaintiffs challenge the **Circulator Affidavit** provision, codified at Florida Statutes § 100.371(3)(d):

> (d) A petition form distributed by a petition circulator must also include all of the following:
>
> 1. The Petition Circulator's Affidavit with the circulator's name, permanent address, and petition circulator number or barcode.
>
> 2. The following statement, which must be signed and dated by the circulator:
>
> By my signature below, as petition circulator, I verify that the petition was completed and signed by the voter in my presence. Under penalty of perjury, I declare that I have read the foregoing Petition Circulator's Affidavit, and that the facts stated in it are true, and that if I was paid to circulate or collect this petition, payment was not on a per signature basis.

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RTCW and League Plaintiffs challenge this provision based on (1) First Amendment speech and (2) First Amendment association.

E. Plaintiffs challenge the **Ten-Day Return Deadline** and associated fines, codified at Florida Statutes § 100.371(7)(a):

> (7)(a) A sponsor that collects petition forms or uses a petition circulator to collect petition forms serves as a fiduciary to the voter ~~elector~~ signing the petition form and shall ensure~~, ensuring~~ that any petition form entrusted to the sponsor or petition circulator is ~~shall be~~ promptly delivered to the supervisor of elections in the county in which the voter resides within 10 ~~30~~ days after the voter ~~elector~~ signs the form. If a petition form collected by the sponsor or any petition circulator is not promptly delivered to the supervisor of elections, the sponsor is liable for the following fines:
>
> 1. A fine in the amount of $50 per each day late for each petition form received by the supervisor of elections in the county in which the voter resides more than 10 ~~30~~ days after the voter ~~elector~~ signed the petition form ~~or the next business day, if the office is closed~~. A fine in the amount of $2,500 ~~$250~~ for each petition form received if the sponsor or petition circulator acted willfully.
>
> 2. A fine in the amount of $100 per each day late, up to a maximum of $5,000, for each petition form collected by a sponsor or a petition circulator, signed by a voter on or before February 1 of the year the general election is held and received by the supervisor of elections in the county in which the voter resides after the deadline for such election. A fine in the amount of $5,000 for each such petition form received if the sponsor or petition circulator acted willfully.
>
> 3. A fine in the amount of $500 for each petition form collected by a petition circulator which is not submitted to the supervisor of elections in the county in which the voter resides. A fine in the amount of $5,000 ~~$1,000~~ for any petition form not so submitted if the sponsor or petition circulator acting on its behalf acted willfully.

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FDH and RTCW Plaintiffs challenge this provision based on (1) First Amendment speech, (2) First Amendment association, and (3) substantive due process.

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INTRODUCTION

Plaintiffs' challenge to House Bill 1205 remains principally a First Amendment case—one premised on the notion that talking isn't enough. Plaintiffs acknowledge that HB 1205 prevents no one, anywhere or at any time, from speaking with a voter about a citizen-initiative petition. Yet they insist that neutral, procedural rules for collecting and delivering signed petitions violate the First Amendment. They do not.

Speaking with a voter is speech; what follows—collecting and delivering forms—is conduct. This Court explained in *Biddulph v. Mortham*, 89 F.3d 1491, 1498 n.7 (11th Cir. 1996), that there's an "explicit distinction between" the regulation of "the initiative process in general"—the conduct—and "the power to regulate the exchange of ideas about political changes sought through the process"—the speech. Because the State has "broad discretion in administering its initiative process," regulations governing the collection of initiative petitions must satisfy only rational basis review. *Id.* at 1500.

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More recent decisions reinforce that distinction. Citing *Biddulph*, a panel of this Court stayed a preliminary injunction in this case after agreeing that speech and conduct must be separated. *Fla. Decides Healthcare, Inc. v. Fla. Sec'y of State*, No. 25-12370, 2025 WL 3738554, at *4-5 (11th Cir. Sept. 9, 2025). The Supreme Court likewise signaled that "neutral, procedural regulation[s]" of the initiative process don't present a First Amendment question at all. *Little v. Reclaim Idaho*, 591 U.S. 1060, 1061 (2020) (Roberts, C.J., concurring with three others in granting of stay). "Even assuming that the state laws" "implicate the First Amendment, such reasonable, nondiscretionary restrictions

are almost certainly justified by the important regulatory interests in combating fraud." *Id.* at 1062. HB 1205 fits squarely within that framework.

The Florida Legislature enacted HB 1205 in response to documented problems in the initiative process. Circulators stole sensitive information from petitions, altered or completed petition forms, and submitted petitions in the names of deceased voters. Investigations followed, then arrests, convictions, and sentences. The circulators suspected or convicted of misconduct handled tens of thousands of petitions.

The Legislature also learned that petition sponsors often rely on out-of-state contractors who, in turn, retain out-of-state subcontractors that hire out-of-state circulators. That arrangement forces law enforcement to work through a nesting-doll structure to investigate misconduct, make arrests, and secure convictions.

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HB 1205 responds to those documented problems. It regulates who may collect signed petitions and when those petitions must be delivered to election officials. It imposes civil and criminal penalties for violating those procedural requirements. But it neither prevents nor penalizes anyone for speaking with voters about a proposed initiative. That separates HB 1205 from the laws courts have previously invalidated.

Plaintiffs nevertheless ask this Court to set aside the district court's judgment. Their First Amendment arguments misapprehend the law. Several Plaintiffs failed to prove at trial that they face any imminent injury from the provisions they challenge. The substantive due process claims identify no deeply rooted right. And the equal protection claim ignores tenets of democratic self-government. This Court should affirm.

JURISDICTIONAL STATEMENT

The district court had jurisdiction under 28 U.S.C. § 1331. This Court has jurisdiction under 28 U.S.C. § 1291 to review the district court's final order and judgment.

STATEMENT OF THE ISSUES

Plaintiffs' three cross-referencing briefs challenge several aspects of the district court's final order. Their First Amendment arguments predominate and inform even threshold questions such as standing. The Attorney General and Secretary of State therefore address the First Amendment issues first, followed by standing, substantive due process, and equal protection. This appeal presents the following questions:

1. Whether HB 1205's **Petition Circulator Eligibility** provisions, **Fines** provisions, **Criminal** provisions, **Circulator Affidavit** provision, and **Ten-Day Return Deadline** violate the First Amendment freedom of speech.

2. Whether Plaintiffs have a First Amendment freedom of association claim.

3. Whether the district court correctly concluded that RTCW and League Plaintiffs lack standing to challenge some of HB 1205's provisions.

4. Whether HB 1205's **Ten-Day Return Deadline** and **Fines** provisions violate substantive due process under the Fourteenth Amendment.

5. Whether HB 1205's prohibition on non-citizens collecting and delivering signed petitions violates equal protection under the Fourteenth Amendment.

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STATEMENT OF THE CASE

I. Factual Background

A. HB 1205's backdrop and its accompanying findings.

"Nothing in the [U.S.] Constitution requires" "any" "State to provide for ballot initiatives." *Little*, 591 U.S. at 1061-62. Florida nevertheless does. Article XI, section 3 of the Florida Constitution "reserve[s] to the people" the "power to propose the revision or amendment of any portion or portions of this constitution by initiative," provided the initiative "embrace but one subject and matter directly connected therewith."

In 2025, the Florida Legislature enacted, and the Governor signed into law, House Bill 1205. DX 1. The bill imposes neutral, procedural regulations on the collection and delivery of signed citizen-initiative petitions.

The Legislature explained that it was "compel[led]" to act because of "[e]vidence of fraud related to the process of gathering signatures on petitions for constitutional amendments." DX 1 at 6. HB 1205's findings further detail the Legislature's reasons for acting:

- "[I]nvestigations conducted by the Office of Election Crimes and Security have shown that agents of political committees sponsoring initiative petitions engaged in illegal and fraudulent activities while gathering petition signatures in the lead-up to recent elections." DX 1 at 4.

- "[T]he evidence brought forward indicates numerous instances of petition circulators being paid per signature, signing petition forms on behalf of deceased individuals, forging or misrepresenting voter signatures on petition forms, using voters' personal identifying

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information without consent, committing perjury, and swearing false oaths." DX 1 at 4.

- "[D]espite the fiduciary duty prescribed by Florida law, sponsors of initiative petitions have failed to cooperate with investigations and have attempted to deflect responsibility for the actions of petition circulators to contractors and subcontractors, with the sponsors denying that they have custody or control of documents requested by state officials." DX 1 at 5.

- "[S]ponsors, contractors, and petition circulators have blatantly attempted to evade investigation by delegating key aspects of petition activities to out-of-state entities, who then subcontracted with other individuals who were even further outside the reach of Florida authorities." DX 1 at 5.

- "[E]vidence provided to the Office of Election Crimes and Security by supervisors of elections in several counties showed that petition circulators submitted petition forms on behalf of more than 50 deceased Floridians." DX 1 at 5.

- "[I]nformation provided to the Office of Election Crimes and Security from multiple supervisors of elections and individual Florida voters showed that petition circulators committed perjury and swore false oaths by distributing petition forms with pre-signed attestations to groups of unregistered circulators, who then obtained signatures outside the registered circulator's presence." DX 1 at 5.

- "[I]nvestigations revealed that after petition forms were signed and submitted by voters, petition circulators tampered with the signed forms by using a website to obtain missing personal identifying information, and then filled in the incomplete petition forms." DX 1 at 5.

- "[I]nvestigations indicated that some otherwise valid petition forms were obtained by fraud, with circulators misleading prospective signatories by telling them that the amendment did something other than what was described in the ballot summary or amendment language, or not showing the signatories what was on the ballot at all." DX 1 at 5.

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- "[E]vidence showed that petition circulators were able to obtain the four necessary elements of personal identifying information required on petitions—name, address, voter registration number or birthdate, and signature—using publicly available data to commit identity theft and complete dozens, hundreds, or even thousands of petitions without ever actually circulating a petition." DX 1 at 5-6.

- "[T]he Office of Election Crimes and Security received complaints from many Florida voters whose information was fraudulently submitted on forms for at least four initiative petitions circulated for inclusion in the 2024 General Election." DX 1 at 6.

- "[M]any of those complaints arose because some supervisors of elections notified a voter when a petition form bearing his or her name was rejected, which prompted such voters to contact the supervisor of elections or the Office of Election Crimes and Security to report potential fraud." DX 1 at 6.

- "[A]t least one sponsor of an initiative amendment circulated during the 2024 General Election cycle settled a complaint with the Office of Election Crimes and Security for violations related to the petition process and agreed to pay $164,000 in fines." DX 1 at 6.

- "[E]xisting fines and penalties levied against petition sponsors engaging in, encouraging, or, at the very least, turning a blind eye to illegal activities related to the petition process appear to be inadequate deterrents." DX 1 at 6.

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No one from the Florida Department of State or its Office of Election Crimes and Security spoke with the Legislature about HB 1205, Tr.2012:21-2013:8 (Matthews), but the Legislature had before it OECS's reports, which the bill specifically references. DX 2, 3, 4. OECS must submit these reports "[b]y January 15 of each year." Fla. Stat. § 97.022(7). They must detail the "total number of complaints received and independent investigations initiated" by the office; identify the "number of complaints referred

to another agency for further investigation or prosecution" (because the office doesn't itself prosecute crimes); and detail "each alleged violation or irregularity investigated," including the source, the "law allegedly violated" or the "nature of the irregularity reported," the affected county, and the "status of the investigation or resulting criminal case." Fla. Stat. § 97.022(7).

Three OECS reports are relevant because they predate HB 1205's enactment on May 2, 2025. DX 1 at 28. They are the January 15, 2024 report, the December 20, 2024 report, and the January 15, 2025 report.

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The **January 2024 report** (Doc.653-1/DX 2) catalogued petition-fraud arrests and charges. It reported the "arrest of a Marion County woman for personal identification fraud related to paid constitutional petition initiatives" where the woman was "charged with 16 counts of fraudulent use of personal identification information." Doc.653-1/DX 2 at 6. It also reported "three petition circulators who forged signatures, submitted duplicate signatures on behalf of voters, and signed for deceased voters." Doc.653-1/DX 2 at 6. And it noted that in December 2023, five circulators "were charged with a total of 92 felony counts of theft of personal identifiable information and false swearing of voter registration information." Doc.653-1/DX 2 at 6.

OECS also reported complaints involving an initiative in 2023 that implicated "at least 32 individual paid petition circulators," spanning "at least 35 Florida counties" and affecting "over 1,500 Florida voters as potential victims." Doc.653-1/DX 2 at 9-10. The alleged violations included "acts of identity theft—using voters personal

identifying information to complete the initiative petition and then forging a voter signature." Doc.653-1/DX 2 at 10. "All of the 32 circulators mentioned ha[d] at least some petitions that ha[d] been verified as valid." Doc.653-1/DX 2 at 10.

Finally, OECS identified investigations into circulators' pay-per-signature compensation and late delivery of signed petitions. Doc.653-1/DX 2 at 10-11.

The **December 2024 report** (Doc.653-3/DX 4) addressed an OECS investigation prompted by complaints concerning the initiative sponsored by Floridians Protecting Freedom. Doc.653-3/DX 4 at 1-2 & n.1.

The report again documented arrests and sentences. George Andrews submitted 1,906 petitions for Floridians Protecting Freedom's initiative, 964 of which were invalidated. He was charged with twenty felony counts—ten for criminal use of personal identification information and ten for signing another person's name or a fictitious name. Doc.653-3/DX 4 at 12. Mr. Andrews pled guilty and was sentenced to "25.8 months." Doc.653-3/DX 4 at 12. The report provided similar information about Jamie Johnson, Andre Salazar, and Donna Harriel, who collected petitions for the same initiative. Doc.653-3/DX 4 at 13-16. The four arrested circulators submitted 2,854 petitions that the Supervisor of Elections "verified as valid and counted toward the total number" required for ballot placement. Doc.653-3/DX 4 at 17. OECS also reported the results of an audit of validated petitions. Doc.653-3/DX 4 at 18-21.

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The **January 2025 report** (Doc.653-2/DX 3) incorporated the audit results by reference. Doc.653-2/DX 3 at 21. It again discussed the cases of George Andrews, Jamie Johnson, Andre Salazar, and Donella Harriel. Doc.653-2/DX 3 at 12-16.

The report also described additional arrests. Natalie Marrero, a circulator for the recreational marijuana petition, was charged with "32 felony counts: 16 felony counts of Criminal Use of Personal Identification Information" and "16 felony counts of False Swearing/Submission of False Voter Registration Information." Doc.653-2/DX 3 at 16. She pled "no contest" to nineteen of the counts. Doc.653-2/DX 3 at 16. Jessica Humphreys submitted "a total of 3,980 marijuana petitions across the state," of which "2,064 were invalidated," and was charged with "68 felony counts," though the "case [wa]s ongoing" when OECS submitted its report. Doc.653-2/DX 3 at 16-17. Nelson Stone submitted "582 marijuana petitions and 2,333 casino gambling petitions across the state," was arrested on five felony counts of "Fraudulent Use of Personal Identification Information Concerning a Deceased Individual," and "pleaded guilty to all charges." Doc.653-2/DX 3 at 17.

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Yenay Ramos, Haggi Amirally, Henos Joseph, Zachary Dworsky, Colton Brady, Krisharia Williams, and Jill President were likewise arrested and charged with crimes arising from their petition-gathering activities. Doc.653-2/DX 3 at 17-20. The first three pled to the charges; the cases against the other four remained pending when OECS submitted its report to the Legislature. Doc.653-2/DX 3 at 17-20.

The report addressed civil penalties as well. In 2024 alone, Floridians Protecting Freedom was assessed "$186,000 in civil fines" through three separate fine letters. Doc.653-2/DX 3 at 24.

OECS also supplied a "case breakdown" table of about 500 matters statewide concerning "Initiatives; procedure for placement on ballot." Doc.653-2/DX 3 at 122-51. That figure almost certainly understated the problem because petition fraud may be charged as false swearing or submission of false voter-registration information. Doc.653-2/DX 3 at 12-20.

B. Trial testimony confirming the findings.

Trial testimony confirmed the concerns. Witnesses included Jillian Pratt, Director of the Office of Election Crimes and Security; Jonathan Bridges, Chief Assistant Statewide Prosecutor; William Gladson, State Attorney for Florida's Fifth Judicial Circuit; Mark Earley, Leon County Supervisor of Elections; and Plaintiffs' own witnesses, Meghan Cox and Marc Walsh.

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1. Jillian Pratt worked on the OECS reports, served as the office's legal adviser, and participated in its audits. She testified that both HB 1205's findings—its whereas clauses—and the OECS reports were consistent with her understanding of the problems affecting the citizen-initiative process. Tr.2083:4-9; Tr.2083:13-21.

Addressing the January 2024 report, Director Pratt explained that initiative fraud affected the abortion and gambling initiatives. Tr.2085:17-20. The concerns included petitions purportedly signed by deceased individuals, Tr.2085:21-25, and mismatched

signatures, Tr.2086:1-3. The conduct of just thirty-two circulators potentially affected more than 1,500 petitions. Tr.2087:7-11.

Director Pratt also confirmed the statutorily-required information in the January 2025 report. Tr.2087:12-2088:8. She explained that "one of the big focuses [of the report] was petition fraud." Tr.2087:19.

Director Pratt then addressed the audit discussed in the December 2024 report. It began after a petition circulator who hired other circulators personally delivered to OECS more than 600 petitions for Floridians Protecting Freedom's initiative that he suspected were fraudulent. Tr.2088:19-24; Tr.2089:11-14; Tr.2090:14-17. OECS "looked at those petitions and determined that a large number of them were likely fraudulent," Tr.2090:1-2, based on "looking at the handwriting in the petitions" and "[f]requently" finding that "it was the same handwriting over and over again," Tr.2090:4-6. "[A] lot of [the petitions] were [submitted] in alphabetical order," which "led [OECS] to believe that the circulators were possibly going off of some list of voters." Tr.2090:6-8. Some signatures also didn't match voter files. Tr.2090:8-13.

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OECS also obtained a "do-not-buy" or "do-not-hire" list from an organization that circulated petitions for Floridians Protecting Freedom. Tr.2092:5-15. As OECS understood it, the sponsor's agent would not work with individuals on the list because they had "committed fraud" or were "suspected" of having "committed fraud." Tr.2092:14-15. Yet when OECS compared the list with the Department of State's registered-circulator records, fifty-five listed individuals remained registered for Floridians

Protecting Freedom and collectively submitted 8,800 petitions. Tr.2092:16-25; Tr.2093:11-16; Tr.2093:21-25.

Director Pratt also addressed volunteer circulator concerns. Although OECS generally focused on paid circulators, it was concerned that volunteers might also commit fraud. Tr.2119:21-2120:9. The office had "received some petitions on volunteer forms that were on behalf of deceased individuals that could not have signed" on the date "identified in those petitions," Tr.2120:6-8, including one example from Hernando County, Tr.2121:7-20. Either the volunteer or the person who completed the form could have committed the fraud, but identifying the culprit was difficult. Tr.2122:13-20. That's because pre-HB 1205 volunteer forms omitted the volunteer's name—one of two names needed to investigate. *See* RTCW 170 (form).

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Since HB 1205's enactment, and consistent with one of its new voter-notification provisions, Director Pratt's office received approximately 5,000 signed affidavits from voters stating that their petitions were improperly verified for a citizen initiative. Tr.2123:6-2124:2. Approximately 600 involved petitions submitted on personal use forms—100 for Florida Decides Healthcare's initiative and 500 for Smart & Safe's initiative—that don't disclose who collected them. Tr.2124:3-10.

Director Pratt further testified that, during the preceding year, OECS made 337 law enforcement referrals concerning petition-related issues. Tr.2125:11-13. Not every matter results in a referral: OECS seeks "to reach the level of probable cause" first, but

"sometimes [it's] not able" to do so "depending on what witnesses" say and "what evidence [it's] able to obtain." Tr.2134:8-18.

2. Jonathan Bridges is one of the prosecutors who receives OECS referrals. Tr.1858:6-10. As Chief Assistant Statewide Prosecutor, he oversees lawyers who prosecute election crimes, including petition-related offenses. Tr.1854:7-16; Tr.1854:19-21; Tr.1855:7-10. His office received "dozens upon dozens, possibly in the hundreds" of petition-fraud referrals. Tr.1864:10-16.

In-state investigations are easier because the Florida Department of Law Enforcement is the prosecutors' primary investigative arm and both agencies' jurisdiction ends at the state's borders, making out-of-state evidence and testimony harder to obtain. Tr.1857:9-21. Out-of-state investigations also take days, not hours, and require coordination with other states' law enforcement to avoid "blue-on-blue problems." Tr.1884:15-1885:7. Out-of-state arrests also require greater coordination and extradition. Tr.1885:9-24.

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Mr. Bridges offered concrete examples. One involved PCI Consultants, the "company that was contracted by Floridians Protecting Freedom to gather petitions for the abortion initiative." Tr.1876:24-1877:2. PCI was in California. Tr.1877:3-4. When Mr. Bridges' team "figured out through [their] investigations that some of [their] suspects worked for PCI, [they] attempted to subpoena records—employment records from PCI to prove up identity, to prove that these suspects were actually gathering petitions." Tr.1877:5-13. After some difficulty, PCI produced its "do not buy" list, "a

list of paid petition circulators who have been blackballed, banned from the industry." Tr.1879:2-10.

Prosecutors similarly subpoenaed Grassfire, LLC, while investigating Smart & Safe's petition-gathering activities during the 2022-2024 cycle for a marijuana initiative. Tr.1881:6-1882:1. Grassfire was in California, and its owner was in Hawaii. Tr.1882:2-10. The owner ultimately provided "what he wanted to give [the prosecutors]," but "not everything that [they] had sought in [their] subpoena." Tr.1882:11-16.

In both matters, Mr. Bridges explained, his office sought employee information concerning individuals, many of whom were non-residents. Tr.1882:17-25.

Mr. Bridges also described specific arrests, including that of Alexandria Tatem, a registered circulator for Smart & Safe's most recent initiative. DX 10 at 1. Ms. Tatem was a Texas resident and was arrested outside Florida. DX 10 at 2; Tr.1883:11-13. Investigating and arresting her outside the state "slowed the investigation" into potential fraud related to the marijuana initiative "significantly," and "hampered [the Statewide Prosecutor's] ability to seek out the true facts as they occurred." Tr.1883:24-1884:2. Mr. Bridges also testified about the arrests of Rakia Pope, George Andrews, Jamie Johnson, Alexander Francis, Andre Salazar, Donella Harriel, Nelson Stone, and Zachary Dworsky. Tr.1867:16-1875:3.

Looking back two years, Mr. Bridges testified that twelve defendants had been convicted of petition-fraud offenses. Tr.1875:4-12. There had been no acquittals and no cases dismissed by prosecutors after charges were filed. Tr.1875:14-22. "[P]robably

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12 to 20" cases involving "paid petition circulator defendant[s]" remained pending statewide. Tr.1875:23-1876:5. His office also had "at least 60 open investigations of paid petition circulators." Tr.1876:16-17.

Mr. Bridges explained why his office focused on paid circulators before HB 1205: volunteer referrals contained less identifying information. Without the circulator's name, prosecutors directed resources to cases with stronger investigative leads. Tr.1886:21-1888:10. Because HB 1205 requires additional identifying information on petition circulator forms regardless of compensation, Mr. Bridges expected volunteer circulator investigations to become "more efficient and more accurate." Tr.1888:11-20.

3. William Gladson, State Attorney for Florida's Fifth Judicial Circuit, likewise described significant resource constraints. His ninety-five lawyers handled approximately 41,000 complaints each year, Tr.1945:10-12, in a circuit of 1.5 million residents, Tr.1929:7-8. His office had seven sworn investigators, Tr.1929:5-20, and it "typically" relied on law enforcement agencies to conduct investigations, Tr.1945:15-21. Even so, the office investigated and prosecuted petition-related fraud.

Mr. Gladson's office encountered forged petitions involving fraudulent use of personal identification information and perjury. Tr.1912:9-13. For example, after receiving a complaint from Marion County Supervisor of Elections Wesley Wilcox, the office prosecuted petition circulator Maria Bautista. Tr.1913:21-1914:6; Tr.1916:12-17. Ms. Bautista was convicted of thirteen counts of fraudulent use of personal identification information. Tr.1917:9-18.

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Other investigations exceeded the office's practical reach. In investigating Daviann Dunn, for example, Mr. Gladson's office referred the matter to OECS. Tr.1921:22-1923:2. The investigative trail again led to PCI Consultants, the California company collecting petitions for the abortion initiative, and Mr. Gladson concluded that another state agency was "better capable of investigating" the matter. Tr.1922:11-1923:2.

Supervisors helped move investigations forward. Even before HB 1205, three Supervisors sent letters to voters whose information appeared to have been misused or signatures forged. Tr.1923:19-1924:8. Mr. Gladson's office used those letters to identify potential victims and suspects. Tr.1924:12-25. Those letters helped develop Ms. Bautista's case through conviction. Tr.1925:1-16.

4. Mark Earley, Leon County's Supervisor of Elections, also described petition fraud. His office submitted an OECS complaint concerning a Smart & Safe circulator who submitted a petition in the name of a deceased voter. DX 656 (complaint); DX 838 (cover e-mail); Tr.576:9-581:24. A redacted version of the complaint appeared in OECS's January 2025 report. Tr.580:1-581:24 (discussing complaint that begins at Doc.653-2/DX 3 at 419).

Another complaint involved one of Supervisor Earley's own employees. A Smart & Safe circulator submitted a petition purporting to bear the employee's signature, although the employee confirmed that she had not signed it. DX 794 at 4; *see also* Tr.588:1-589:15; Tr.589:20-590:19.

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5. Meghan Cox, an experienced circulator representing Plaintiff Smart & Safe, further corroborated the Legislature's concerns. She described the organizational structure used by initiative sponsors, the fraud encountered in petition gathering, and sponsors' own treatment of petitions submitted by suspect circulators.

First, the structure. Ms. Cox is CEO of Groundgame Political Solutions, a Delaware company that she operated from Phoenix, Arizona. Tr.1165:2-8. Groundgame had no contract with Smart & Safe, the sponsor of the recreational marijuana initiative. Tr.1166:3-8. Instead, it contracted with a Texas company. Tr.1166:10-25.

Groundgame worked with field circulators but did not hire them directly. Tr.1169:9-11. Instead, Groundgame hired coordinators, who hired subcoordinators, who then hired circulators from around the country. Tr.1169:16-25. Groundgame used three primary coordinating companies for the Smart & Safe initiative. Tr.1167:15-22. One, Let the Voters Decide, used ten subcoordinators, each of which hired field circulators. Tr.1167:25-1168:15.

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Second, the fraud. Ms. Cox's team encountered fraud despite Smart & Safe's safeguards: mandatory circulator training, Tr.1178:19-1179:4; background checks that generally excluded felons, Tr.1179:5-1180:3; the Deputy phone application, which tracked where circulators clocked in and out, Tr.1202:17-1203:17; and Ms. Cox's efforts to recruit the "best of the best circulators," Tr.1090:21-1091:1.

Ms. Cox's team tracked suspected fraud through a text thread called "Back end MJ." DX 194 at 1; Tr.1187:13-24. Through that thread, Ms. Cox fired Lauren Benton

after Volusia County "flagged" Ms. Benton "for fraud." DX 194 at 3; Tr.1191:15-25. The team also fired Lakeera Porter, Priscilla Pierre, and Chiquita Bradford. DX 194 at 4-6; DX 195 at 1; Tr.1192:1-1193:10. Ms. Cox confirmed that Alexandria Tatem—whom Mr. Bridges also discussed—was a Texas resident, a Smart & Safe circulator hired through Ballast Marketing, and fired after her arrest. Tr.1193:21-1194:15. Ms. Tatem also appeared in the thread. DX 195 at 5.

Immediately after firing Lakeera Porter, Ms. Cox told the thread that "75% of the circulators are still clocking in and out at home," rather than using the Deputy application to "clock in and out" "on location." DX 194 at 4. That application was intended to verify that circulators worked at their assigned locations. Tr.1203:1-15.

Alexander Francis illustrates the limits of those safeguards. He was a Smart & Safe circulator who used the Deputy application and was hired through National Ballot Access, a New York company. Tr.1203:18-1204:8. His internal validation rate was approximately 76 to 86 percent, which Ms. Cox's team considered strong. Tr.1204:9-13. By the team's quality-control metrics, he was a good circulator. Tr.1204:14-16; Tr.1204:19-21. Yet he was arrested for fraud. Tr.1204:17-18.

Smart & Safe also maintained a quality-control log listing circulators suspected of fraud and the number of affected petitions. DX 158; Tr.1197:16-1198:13. A partially unredacted version identified thirty-four circulators and gave an affected-petition count for most, though not all, of them. DX 197 at 2. Even that partial count reflected 2,967 "[p]etitions impacted" by fraud. DX 197 at 2; Tr.1199:18-25.

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After HB 1205, Smart & Safe gave the State a list of forty-five circulators, though it did not identify the number of affected petitions. DX 161. Smart & Safe submitted the list under its new duty to report violations or potential violations and thereby invoke HB 1205's safe harbor. DX 160 (referencing Fla. Stat. § 100.371(11)).

Third, once a circulator was suspected or arrested for fraud, Smart & Safe excluded every petition that circulator had submitted from its internal valid-petition count. Not one was counted. Tr.1204:25-1205:14. But it didn't alert the Supervisor that the circulator might have submitted earlier batches; it simply assumed the Supervisor's staff would revisit those petitions. Tr.1207:21-1208:1.

6. Marc Walsh, another experienced circulator working on Florida Decides Healthcare's initiative, likewise conceded that fraud occurs in petition gathering, including within his company, The Outreach Team. Tr.212:6-8. That was so despite the company's "remote quality control team," Tr.183:17-184:17, and its background checks of petition circulators, Tr.140:18-20 (Simmons).

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II. Procedural Background

Four groups of Plaintiffs—FDH, RTCW, League, and Smart & Safe—challenged various HB 1205 provisions on multiple constitutional grounds. Plaintiffs filed successive motions for preliminary injunctions. *See* Docs.92, 165, 169, 173, 175, 291, 356. This Court stayed one of those injunctions. *Fla. Decides Healthcare*, 2025 WL 3738554, at *7-8. The stay panel explained that it was "skeptical that the challenged provisions implicate the First Amendment at all." *Id.* at *6.

The district court then conducted a two-week bench trial and entered its final order on April 30, 2026. Doc.679. It rejected every claim, concluding either that Plaintiffs lacked standing or that their claims failed on the merits.

Three Plaintiff groups appealed. Docs.693, 695, 699. Smart & Safe didn't. The appeals concern the **Petition Circulator Eligibility** provisions; the standalone **Fines** provisions; the **Criminal** provisions; the **Circulator Affidavit** provision; and the **Ten-Day Return Deadline** and associated fines.

STANDARD OF REVIEW

"In reviewing a judgment following a bench trial, [this Court] review[s] *de novo* both conclusions of law and the application of the law to the facts." *League of Women Voters of Fla. v. Fla. Sec'y of State*, 66 F.4th 905, 921 (11th Cir. 2023). Factual findings are reviewed for clear error. *Thomas v. Bryant*, 614 F.3d 1288, 1303 (11th Cir. 2010). And Plaintiffs "must establish actual success on the merits" before HB 1205 can be enjoined. *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1268 (11th Cir. 2006).

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SUMMARY OF THE ARGUMENT

HB 1205 is about who gets to collect and deliver signed initiative petitions and by when. It does nothing to keep a person from talking to a voter about or otherwise advocating for an initiative. It's about what happens after the speech itself. In this way the bill concerns conduct only. *Biddulph* allows for precisely such regulations.

The standalone free association claim falls with the free speech claim. Regardless, HB 1205 forces no group to accept anyone. Nor does it keep any group from talking

about the issues that matter to it. Any attempt to recast the collection of forms as expressive association is simply an attempt to sidestep *Biddulph*.

Taking a step back, the district court properly concluded—based on a two-week trial record—that RTCW and League Plaintiffs lack standing to challenge many of HB 1205's provisions. RTCW has no active campaign. League Plaintiffs don't sponsor initiatives and offered only "someday" plans to help with unascertained initiative campaigns in the future. That's not enough to establish an imminent injury-in-fact and seek prospective declaratory and injunctive relief against HB 1205.

The substantive due process claims against the **Ten-Day Return Deadline** and **Fines** provisions fail too. The district court properly resolved these claims when holding that the challenged provisions fell within the heartland of permissible regulation. In any event, no remand is necessary because Plaintiffs identify no deeply rooted right at issue.

Finally, the **Petition Circulator Eligibility** provisions' bar on non-citizen collection falls within the political-function exception. Collecting signed petitions is part of democratic self-government, which the State may reserve to its citizens.

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ARGUMENT

I. HB 1205 regulates conduct—not speech—and thus doesn't run afoul of the First Amendment's free-speech protections.

A. If speech is implicated at all, rational basis applies.

None of the many provisions of HB 1205 keeps anyone from talking about an initiative. Speeches, e-mails, texts, phone calls, and social-media posts remain unaffected. That matters. Advocating for or against a proposed initiative is speech. Collecting and delivering signed petitions isn't.

Plaintiffs' own witness, Juan Ardila, agreed. He testified that he could separate the speech in a typical interaction (building rapport, explaining the proposal, and persuading someone to sign) from the conduct (taking physical possession of a signed petition or handing a person an envelope to mail it). Tr.384:21-385:17.

This Court said the same thing most recently in *Florida Decides Healthcare*, when it stayed the district court's preliminary injunction of the **Petition Circulator Eligibility** provisions. 2025 WL 3738554, at *4-5.

That's consistent with *Biddulph*, which drew "an explicit distinction between" the regulation of "the initiative process in general" and "the power to regulate the exchange of ideas about political changes sought through the process." 89 F.3d at 1498 n.7. Because the State has "broad discretion in administering its initiative process," regulations of the process need only satisfy rational basis review, assuming First Amendment scrutiny applies at all. *Id.* at 1500. Heightened scrutiny "only" applies "in certain narrow

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circumstances," when the State (1) "enact[s] initiative regulations that [a]re content based or ha[ve] a disparate impact on certain political viewpoints," (2) "appl[ies] facially neutral regulations in a discriminatory manner," or (3) "impermissibly burden[s] the free exchange of ideas about the *objective* of an initiative proposal." *Id.* (emphasis added).

Put simply, *Biddulph* distinguishes between a regulation on the free exchange of ideas—the "objective of an initiative proposal"—and the process for collecting petitions. *Id.* The former concerns speech and the latter concerns conduct.

Meyer v. Grant, by contrast, involved a regulation of advocating for the objective of an initiative proposal. 486 U.S. 414 (1988). Colorado's ban on paid petition circulators was so broad that it prevented paid circulators from even approaching voters, discussing petitions, and encouraging voters to sign:

> Any person, corporation, or association of persons who directly or indirectly pays to or receives from or agrees to pay to or receive from any other person, corporation, or association of persons any money or other thing of value in consideration of or as an inducement *to the circulation of an initiative or referendum petition* or *in consideration of or as an inducement to the signing of any such petition* commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S. (1973).

Id. at 416 n.1 (emphasis added) (quoting Colo. Rev. Stat. § 1-40-110 (1980)).

As one court within this circuit put it, "the statute at issue in *Meyer* directly regulated the conditions under which plaintiffs could *interact* with members of the public regarding an issue of political concern." *League of Women Voters of Fla. v. Browning*, 575 F.

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Supp. 2d 1298, 1321 (S.D. Fla. 2008) (emphasis added). That is the lens through which any snippets from *Meyer* concerning First Amendment law must be viewed.

The Supreme Court understandably found that the Colorado law in *Meyer* violated the First Amendment. The law, in a real sense, "limit[ed] the number of voices who w[ould] convey" the petition sponsors' "message" and "therefore, limit[ed] the size of the audience they c[ould] reach," which "ha[d] the inevitable effect of reducing the total quantum of speech on a public issue." 486 U.S. at 422-23.

The same was true in a subsequent citizen-initiative case from Colorado, *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182 (1999). The laws mentioned in that case were similarly broad and affected speech. The Supreme Court thus engaged in the same analysis. *See, e.g.*, *id.* at 188 n.2 ("No section of a petition for any initiative or referendum measure *shall be circulated* by any person who is not a registered elector and at least eighteen years of age at the time the section is circulated." (emphasis added) (quoting Colo. Rev. Stat. § 1-40-112(1) (1998))).

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In both *Meyer* and *Buckley*, the unconstitutional laws reached speech, not conduct. That distinction tracks First Amendment law more generally. It's blackletter law that speech is afforded First Amendment protection. Conduct isn't. *Rumsfeld v. FAIR*, 547 U.S. 47, 60 (2006). A law that affects what a person "must *do*," as opposed to what a person "may or may not *say*," is a law that regulates conduct. *Id.* Those laws get rational basis review, if the First Amendment is implicated at all. *Little*, 591 U.S. at 1061-62

(casting doubt on whether First Amendment is implicated at all when it comes to "neutral, procedural regulation[s]").

The Supreme Court's broader First Amendment jurisprudence reinforces the point. *FAIR*, 547 U.S. at 65-66. The Court has said: "We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea." *United States v. O'Brien*, 391 U.S. 367, 376 (1968).

The same separation plays out elsewhere. Take third-party voter registration. A volunteer *speaking* to someone about the importance of voting and *encouraging* them to register is different from a volunteer *possessing* the completed registration and *delivering* it on time. That's why "the collection and handling of" election forms, like voter registration applications, "is not inherently expressive activity." *Browning*, 575 F. Supp. 2d at 1319. It's "simply" conduct, "an administrative aspect of the electoral process—the handling of voter registration applications by third-party voter registration organizations *after* they have been collected from applicants." *Id.* at 1322.

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Every provision at issue here concerns the process for collecting and delivering signed citizen-initiative petitions. None keeps anyone from advocating for an initiative. And as the Statement of the Case shows, the Legislature's goals of preventing fraud and improving public confidence in the initiative process supply compelling—and at minimum rational—reasons for these provisions.

B. Plaintiffs' talk-collect-deliver argument misses the mark.

Plaintiffs insist, however, that they must talk about an initiative *and* collect signed petitions *and* deliver those petitions. Talking isn't enough to exercise First Amendment rights, say Plaintiffs. Nor is collecting information through a pledge card. Nor is mailing blank petitions to voters. Nor is using a chase program to remind voters to turn in their own petitions.

Plaintiffs' own witnesses engaged in speech about citizen initiatives *without* collecting or delivering a single signed petition. Marc Walsh tabled on college campuses about initiatives without collecting a signed petition, Tr.204:9-205:16, though he did collect pledge-to-vote cards from students, Tr.205:17-19. Meghan Cox made over a million dollars opposing a Florida initiative without collecting a signed petition. Tr.1171:21-1175:25. Mitchell Emerson described a program that cut out circulators entirely: voters downloaded and completed petitions, and Florida Decides Healthcare followed up to ensure that the signed petitions reached Supervisors of Elections. Tr.284:12-15; Tr.285:14-286:7; Tr.286:11-25. Florida Decides Healthcare's own document reported that the program exceeded its expectations. DX 109 at 11 ("After testing the program, the results exceeded our expectations.").

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Plaintiffs' talk-collect-deliver argument has other problems. Because of *Biddulph*, Plaintiffs must concede that not every regulation of the citizen-initiative process runs afoul of the First Amendment. Under Plaintiffs' theory, it's only the ones that impose

too much of a burden on the process *without* a sufficient justification. If the burden is too high, then the justification must be compelling and the regulation narrowly tailored. This approach is problematic for several reasons.

First, Plaintiffs never say when the burden becomes high enough to trigger this strict scrutiny. Is it 1,000,000 signatures instead of 100,000? Costs above $100,000,000 rather than $10,000,000? Need for 1,000 circulators instead of 100? Daniel Smith, FDH Plaintiffs' expert, couldn't answer these questions. He offered no baseline for existing burdens and no threshold at which the burdens—old or new—become too high. Tr.1380:19-21.

Second, political effectiveness can't be the de facto threshold for when a burden becomes too high. The First Amendment guarantees free speech, not that "advocacy will be effective." *Smith v. Ark. State Highway Emps., Loc. 1315*, 441 U.S. 463, 464-65 (1979). Measuring political effectiveness is also difficult. Not all initiatives are created equal. Some trigger strong feelings in voters and donors. Others don't. Compare the campaign contributions for Floridians Protecting Freedom ($121,766,030.11 for one election cycle) with the campaign contributions for Florida Decides Healthcare ($6,510,464.92 over multiple election cycles). Campaign Finance Database, https://dos.fl.gov/elections/candidates-committees/campaign-finance/campaign-finance-database/ (last visited Oct. 12, 2026).

Third, Plaintiffs' approach invites courts to assess provisions *already in place* before HB 1205 and then decide whether *some combination* of the provisions in HB 1205 pushes

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the *cumulative* burdens past an *undefined* threshold. *See, e.g.*, League Init. Br. at 74-76. That's unworkable.

Consider the resulting injunction: a redline of Florida law excising (and perhaps replacing) some combination of provisions to achieve the right constitutional balance. The ten-day return deadline might become a thirty- or forty-day deadline, though no one could say which is right. That's a problem. Injunctions can't be any "broader than necessary to remedy the constitutional violation." *Young Isr. of Tampa, Inc. v. Hillsborough Area Reg'l Transit Auth.*, 89 F.4th 1337, 1351 (11th Cir. 2024). "[I]njunctive relief must be tailored to fit the nature and extent of the established violation," especially for a state's citizen-initiative process. *Gibson v. Firestone*, 741 F.2d 1268, 1273 (11th Cir. 1984). A state, "having created such a procedure, retains the authority to interpret its scope and availability," so injunctions must respect "basic notions of constitutional jurisprudence and federalism" and must be tailored accordingly. *Id.*

Finally, Plaintiffs' talk-collect-deliver approach misreads *Meyer*, *Buckley*, and Plaintiffs' own out-of-circuit cases.

Start with *Meyer*. It concerned a prohibition on the "circulation of an initiative or referendum petition," signed or unsigned. 486 U.S. at 416 n.1 (quoting Colo. Rev. Stat. § 1-40-110 (1980)). As the Supreme Court put it, the regulation prevented paid circulators from having "conversations with voters in an effort to get them to sign the petition[s]." *Id.* at 421 n.4. And, in *that* circumstance, given *that* statute, the Court said that

the "circulation of an initiative petition" "involves both the expression of a desire for political change and a discussion of the merits of the proposed change." *Id.* at 421.

Buckley concerned the same set of statutes from the same state that made no distinction between the discussion of an issue (the speech that precedes the voter's signature) and the collection of completed petition forms (the conduct that comes after). 525 U.S. at 186. By contrast, Florida's statutory scheme applies only to the latter.

Plaintiffs' out-of-circuit cases also concerned speech, not conduct. Take *We the People PAC v. Bellows* and Maine's ban on out-of-state circulators. 40 F.4th 1 (1st Cir. 2022). The law there defined a "circulator" as someone who "*solicits* signatures for the petition by *presenting the petition to the voter*, *asking the voter* to sign the petition and personally witnessing the voter affixing the voter's signature to the petition." *Id.* at 4 (emphasis added) (quoting Me. Stat. tit. 21-A, § 903-A). Soliciting someone for a signature, asking them to support a cause, and circulating a blank petition for a signature is speech. It requires "face-to-face, interactive communication" intended to convince another person to rally to a cause. *Id.* at 14. But placing the *signed* petition in an envelope and mailing it, or otherwise delivering it within a certain timeframe, is conduct.

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Other out-of-circuit cases follow a similar pattern. The cases concerned statutes that, unlike Florida's scheme, regulated speech. *See, e.g.*, *Yes on Term Limits, Inc. v. Savage*, 550 F.3d 1023, 1029 (10th Cir. 2008) (ban on "non-resident petition circulation," meaning speech); *Chandler v. City of Arvada*, 292 F.3d 1236, 1239, 1241 (10th Cir. 2002) (same); *Wilmoth v. Sec'y of N.J.*, 731 F. App'x 97, 99-103 (3d Cir. 2018) (same).

More fundamentally, Plaintiffs' commingling of speech with conduct creates a paradigm with no limiting principle. Anything that touches the citizen-initiative process is speech, and such speech, they argue, must get heightened (even strict) scrutiny. Under Plaintiffs' approach, the *Buckley* affidavit would be considered a speech regulation and subject to heightened review because it's part of the petition-circulation process. Yet the Supreme Court didn't see things like that. 525 U.S. at 198-200. And, under Plaintiffs' approach, *Buckley*'s "arsenal of safeguards"—laws that prevent fraudulently signing petitions—would all implicate speech and would have to withstand the heat of heightened review, because all such laws would touch on the petition-circulation process. *Id.* at 205.

This Court has long recognized that an "explicit distinction" exists between "regulat[ing] the exchange of ideas about political changes sought through the process" and regulating the process itself. *Biddulph*, 89 F.3d at 1498 n.7. Only the former is speech subject to heightened scrutiny. *Id.* To put a finer point on it, circulators remain free to talk to whomever they want about whatever they want. Speech and conduct can and should be separated here.

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C. The stay panel agreed that speech must be separated from conduct.

A panel of this Court recently read the Supreme Court's precedents much as the State does. *Fla. Decides Healthcare*, 2025 WL 3738554, at *4. It distinguished the out-of-circuit cases the same way. *Id.* at *5. And it recognized that Florida's position remains firmly tethered to *Biddulph*. *Id.*

Though "skeptical" of its applicability, the stay panel even applied the expressive-conduct test from *O'Brien*, 391 U.S. 367, to Florida's restrictions. *Fla. Decides Healthcare*, 2025 WL 3738554, at *6-7. The panel concluded that the **Petition Circulator Eligibility** provisions—specifically, the citizenship and residency requirements—satisfied this intermediate scrutiny test. *Id.*

The panel's skepticism is well-founded. Taking a signed sheet of paper from one place to another has no expressive component. It's nothing like burning an American flag to make a political point, *Texas v. Johnson*, 491 U.S. 397 (1989), burning a cross, *Virginia v. Black*, 538 U.S. 343 (2003), or feeding people in a park to protest spending money on bombs instead of food, *Ft. Lauderdale Food Not Bombs v. City of Ft. Lauderdale*, 11 F.4th 1266 (11th Cir. 2021). Florida's rules for "collecting, delivering, or otherwise physically possessing signed petition forms" concern ministerial tasks that ensure forms reach election officials and get counted. *Fla. Decides Healthcare*, 2025 WL 3738554, at *6 (quotation and brackets omitted). No message about healthcare, clean water, or anything else is so intertwined with that task that it becomes expressive.

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D. HB 1205 satisfies intermediate scrutiny even if it applies.

Even if the expressive conduct test and intermediate scrutiny apply, HB 1205 passes, as the district court rightly concluded. The record established that "Florida undoubtedly has a sufficiently important, and even (as recognized by the district court) a 'compelling,' interest in combatting fraud in the petition-initiative process." *Fla. Decides Healthcare*, 2025 WL 3738554, at *6; *see also Doe v. Reed*, 561 U.S. 186, 199 (2010).

Evidence of fraud was before the Legislature when it enacted HB 1205, the Legislature made findings about that fraud in the bill itself, and trial testimony substantiated those findings.

"And H.B. 1205's chosen means" to address the identified problems "are substantially related to the important interest of preserving the integrity of the electoral process." *Fla. Decides Healthcare*, 2025 WL 3738554, at *6 (quotation omitted). This substantial-relation standard requires the fit between the regulation and its objective to be "reasonable," not perfect, and certainly not "the single best." *Bd. of Trs. of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 480 (1989). An "incidental restriction on alleged First Amendment freedoms" is acceptable so long as the restriction is "no greater than is essential to the furtherance of [the State's] interest." *O'Brien*, 391 U.S. at 377. The mere availability of an alternative "that might be less burdensome on speech" doesn't defeat the State's chosen regulation. *United States v. Albertini*, 472 U.S. 675, 689 (1985). The issue turns on whether the State's aims "would be achieved less effectively" without the regulations. *Id.*

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Start with **Petition Circulator Eligibility** provisions. The Legislature found that circulators with fewer ties to Florida make it harder for the State to investigate fraud. The stay panel already concluded that Florida's interest in investigating fraud would be achieved less effectively without the requirements that circulators be Florida residents and U.S. citizens. *Fla. Decides Healthcare*, 2025 WL 3738554, at *6-7. Since then, Mr. Bridges and State Attorney Gladson testified about the difficulties of out-of-state

investigations. *Supra*; *see also* Tr.451:6-452:3 (Orjuela Prieto) (petition circulator explaining that he's been back to Colombia approximately eight times in the four or so years since moving to the United States).

The same is true of the requirement that volunteers who collect more than twenty-five petitions register as circulators. This requirement helps the State better identify a potential source of problems, especially for large batches of petitions, as Director Pratt and Mr. Bridges testified. *Supra*. Sponsors can seldom help identify bad actors among volunteers because they seldom keep their own volunteer lists. Tr.94:24-95:1 (Acosta); Tr.1053:23-1054:4 (C. Cox). Nor do sponsors control volunteers. Tr.94:10-11 (Acosta); Tr.697:4-11 (Martin).

Keeping people convicted of felonies from collecting signed petitions likewise furthers the State's interests in preventing fraud and improving public confidence with minimal effect on circulation companies. Both Ms. Cox and Mr. Walsh testified that they run background checks on their circulators and generally don't hire people with felony convictions. *Supra*. And no Plaintiffs witness identified a felon working as a circulator.

The **Circulator Affidavit** also satisfies the substantial-relation standard. As Director Pratt and Mr. Bridges explained, the affidavit's information aids investigations whether a circulator is paid or a volunteer. *Supra*. Without these names and addresses, investigations are hampered and the Legislature's goals frustrated. *Supra*.

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The First Amendment effects of this affidavit are incidental at best. The Supreme Court spoke favorably about such affidavits in *Buckley* when approving Colorado's requirement. 525 U.S. at 188-89, 197-200. Colorado required "that circulators attach to each petition section an affidavit containing, *inter alia*, the circulator's name and address and a statement that 'he or she has read and understands the laws governing the circulation of petitions.'" *Id.* at 188-89 (footnote omitted). According to the Supreme Court, the affidavit furthered the State interest in "reaching law violators" and "identify[ing]" and "apprehend[ing]" "petition circulators who engage in misconduct." *Id.* at 196, 198. It also had "immediacy" and "corresponding reliability," given that the "attestation is made at the time a petition section is submitted." *Id.* at 196. "While the affidavit reveals the name of the petition circulator and is a public record," the Court acknowledged, "it is tuned to the speaker's interest as well as the State's. Unlike a name badge worn at the time a circulator is soliciting signatures, the affidavit is separated from the moment the circulator speaks." *Id.* at 198. "The affidavit, in contrast, does not expose the circulator to the risk of 'heat of the moment' harassment." *Id.* at 199.

As in *Buckley*, Florida's affidavit isn't a badge worn while circulating. A funneling mechanism shields the circulator from the heat of the moment and makes Plaintiffs' fears about the affidavit unfounded. Circulators choose where to collect petitions. Tr.435:24-436:13 (Pereira Bonilla). From there, as Plaintiffs' witness Mr. Ardila explained, the first step is building rapport with the voter. *Supra*. And circulators don't hand forms to people who seem hostile or unreceptive. Tr.1010:5-12 (Perez) (explaining

that "if they are hostile to me or not receptive, I'm not going to waste my time" and "there's no point in giving them a petition").

Plaintiffs' fears about the affidavit are also hard to credit. Two witnesses who voiced those fears readily shared their information on public speaker cards available through the Legislature's website. DX 255; DX 256; Doc.278 at 110:19-21 (Scoon). These cards list the bill being discussed. They include the speaker's name, address, telephone number, and email address. And they state that they're public records. One witness on the issue has her home address available through the Florida Bar. Tr.1711:20-1712:7 (Chandler). Another said she feared giving out her address, though it's online because she's a realtor. Tr.1595:20-1596:21 (Lowe-Minor). One feared attaching her name to a controversial issue but then wrote two op-eds in the Orlando Sentinel about the issue under her name. Tr.786:5-17 (Haller). And circulators who signed petitions themselves have their name, address, and issue affiliation in public records available to anyone. Tr.2018:21-2022:8 (Matthews).

Under the circumstances, "there is no reason to assume that any burdens imposed by disclosure of typical referendum petitions," or the circulator affidavits that have some of the same information, "would be remotely like the burdens [P]laintiffs fear in this case." *Doe*, 561 U.S. at 201. Nor should these alleged burdens stand in the way of Florida safeguarding its citizen-initiative process "[e]ven when a referendum involves a particularly controversial subject." *Id.* at 214-15 (Sotomayor, J., concurring).

The remaining provisions clearly involve no expressive conduct. Return **Deadlines** and **Fines** for fraudulently completing petitions involve no exchange of political ideas. Nor do **Criminal** provisions that concern fraudulently signing petitions, stealing driver license or social security numbers, or similar misconduct.

Finally, Plaintiffs minimize the evidence by ignoring the legislative findings and framing prosecuted fraud cases as a small percentage of all petitions collected. That misses the point. Prosecuted cases are a fraction of the misconduct that OECS and law enforcement have uncovered with their limited resources. But even a few cases can undermine public confidence and distort the democratic process. States needn't wait for fraud to reach some intolerable level before acting to prevent it. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 194-96 (2008) ("[t]he record contains no evidence of any such fraud actually occurring in Indiana at any time in its history," but "the propriety of [taking steps to prevent fraud] is perfectly clear"); *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986) (states "should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively"); *League of Women Voters of Fla.*, 66 F.4th at 925 ("Even if there were no evidence of voter fraud in Florida, our precedents would not require it before a bill like S.B. 90 could be adopted.").

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II. Plaintiffs' standalone freedom of association claims fail.

Plaintiffs also argue that the district court erred by not addressing their freedom of association claims. But the district court explicitly said that "Plaintiffs' claims assert most of these provisions violate their First Amendment rights to speech *and association*

by imposing a severe burden on their petition circulation efforts." Doc.679 at 3 (emphasis added). Because the freedom of association claims rise or fall with the freedom of speech claims, the district court simply considered the claims together. That's permissible. *See Citizens for Police Accountability Pol. Comm. v. Browning*, 572 F.3d 1213, 1217 n.6 (11th Cir. 2009) ("Plaintiffs contend that the Florida statute also infringes some on their First Amendment right to engage in political association. But even if true, the additional infringement has no material affect on the analysis otherwise applicable here; so we discuss it no further.").

Plaintiffs' request to have their free association claims considered separately under *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), fails for other reasons too.

First, *Dale* protects a group's right to choose its members—to exclude people whose inclusion would undermine the group's shared message. *Id.* at 648. HB 1205 doesn't compel anyone to accept a member. It regulates who can collect signed petition forms, when those forms must be delivered, and penalties for non-compliance. Initiative sponsors remain free to include or exclude whomever they want when campaigning, fundraising, organizing, or engaging in any other political advocacy.

Second, the rule from *Dale* doesn't always apply. The Supreme Court has distinguished between "expressive association," which is rooted in the First Amendment and intended to protect the right to join for shared speech and goals, and "intimate association," which finds a home in the Fourteenth Amendment's Due Process Clause as an aspect of personal liberty and privacy. *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617-18 (1984).

Expressive association protects a group's ability to engage in First Amendment activities like speech, assembly, and petition. *Id.* at 618. But this right isn't implicated every time a regulation affects a group's employees or volunteers. HB 1205's neutral, procedural regulations don't trigger the kind of First Amendment scrutiny Plaintiffs seek for the reasons discussed above. *See Little*, 591 U.S. at 1061-62 (skeptical that First Amendment implicated); *Fla. Decides Healthcare*, 2025 WL 3738554, at *4-5 (same); *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1099 (10th Cir. 2006) (en banc) ("Although the First Amendment protects political speech incident to an initiative campaign, it does not protect the right to make law, by initiative or otherwise.").

Third, HB 1205 survives even if *Dale* applies. *Dale* asks whether a regulation "significantly affect[s] the [group's] ability to advocate" for its message. 530 U.S. at 650. Again, HB 1205 doesn't affect any group's ability to advocate for or against a ballot initiative. Groups can still organize campaigns, educate the public, and recruit anyone as a volunteer in every aspect of the process except the physical collection of signed petitions. The only "association" arguably affected is with individuals who might serve as petition collectors, but who fail to satisfy the State's new eligibility requirements. This incidental effect shouldn't rise to the level of a constitutional violation for the reasons discussed above. *Cf. Christian Legal Soc'y Chapter of the Univ. of Cal. v. Martinez*, 561 U.S. 661, 681 (2010) ("When these intertwined rights arise in exactly the same context, it would be anomalous for a restriction on speech to survive constitutional review under our limited-

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public-forum test only to be invalidated as an impermissible infringement of expressive association.").

Nor does *Clean Up '84 v. Heinrich*, 759 F.2d 1511 (11th Cir. 1985), require a contrary result. Unlike HB 1205, the regulation in *Clean Up '84* regulated solicitation itself. *Id.* at 1511 ("In this case we review the district court's ruling that Fla. Stat. § 104.36, which prohibits the solicitation of signatures on petitions within 100 yards of a polling place on election day, is unconstitutional."); *see also* Fla. Stat. § 104.36 (1984).

Finally, this Court should see Plaintiffs' free association claims for what they are: an attempt to circumvent the speech-versus-conduct framework. Plaintiffs reframe the collection of signed petition forms as an act of expressive association to work around *Biddulph*. If that reframing is accepted, the State would cede regulation of "the initiative process in general," 89 F.3d at 1498 n.7, and heightened scrutiny would reach far beyond the "certain narrow circumstances" to which it now applies, *id.* at 1500. As a result, restrictions without any "speech elements" would fall within the First Amendment. *Fla. Decides Healthcare*, 2025 WL 3738554, at *4.

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III. The district court correctly held that RTCW and League Plaintiffs lack standing to challenge many of HB 1205's provisions.

A. The district court's findings and determinations on standing are consistent with this Court's precedents.

RTCW and League Plaintiffs also challenge the district court's standing analysis. The Attorney General and Secretary address this threshold issue after the First Amendment claims because the district court found that at least some Plaintiffs had standing

to challenge some provisions, requiring resolution of the broader First Amendment questions. Evaluating each Plaintiff group on the trial record, the court correctly concluded that RTCW and League Plaintiffs lacked standing for many of their claims.

The central question below was whether Plaintiffs proved standing to seek prospective relief—an injunction barring enforcement of one or more of the thirty-eight challenged provisions. Standing, of course, is an "irreducible constitutional minimum" that requires (1) an "injury in fact" that is "concrete and particularized" and "actual or imminent" and not "conjectural or hypothetical," (2) a "causal connection between the injury and the conduct complained of," and (3) a likelihood that "the injury will be redressed by a favorable decision." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (quotations omitted). An organization can challenge a law that impedes its ability to attract members, raise revenue, or otherwise fulfill its purposes. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). And it can sue for its members when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977).

"[E]ach element of standing 'must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation.'" *Bischoff v. Osceola County*, 222 F.3d 874, 878 (11th Cir. 2000) (quoting *Lujan*, 504 U.S. at 561). At the motion to

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dismiss stage, "general factual allegations of injury resulting from the defendant's conduct may be sufficient to show standing." *Id.* Later, the plaintiff can "no longer rest on 'mere allegations,'" but must "'set forth' by affidavit or other evidence 'specific facts'" that establish standing. *Id.* (quoting *Lujan*, 504 U.S. at 561). "[A]t the final stage"—as in this case—the facts supporting standing must be "supported adequately by the evidence adduced at trial." *Lujan*, 504 U.S. at 561; *see also TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021) (same).

Plaintiffs' burden at trial is higher still when it comes to prospective injunctive relief. "[A] person exposed to a risk of future harm may pursue forward-looking, injunctive relief to prevent the harm from occurring, at least so long as the risk of harm is sufficiently imminent and substantial." *TransUnion*, 594 U.S. at 435. "To satisfy the injury-in-fact requirement," "a plaintiff seeking injunctive relief in relation to future conduct must show a sufficient likelihood that he will be affected by the allegedly unlawful conduct in the future." *Silva v. Baptist Health S. Fla., Inc.*, 838 F. App'x 376, 382 (11th Cir. 2020). There must be a "substantial probability" that the plaintiff would achieve its goal absent the challenged action. *Aaron Priv. Clinic Mgmt. LLC v. Berry*, 912 F.3d 1330, 1337 (11th Cir. 2019). The plaintiff must be "able and ready" to pursue the activity allegedly being hampered. *Id.* Vague "preliminary plans" aren't enough. *Id.* at 1333. Immediacy of the injury is key. "The binding precedent in this circuit is clear that for an injury to suffice for prospective relief, it must be imminent." *Elend v. Basham*, 471 F.3d 1199, 1207 (11th Cir. 2006).

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Judged against these standards, the district court rightly concluded that RTCW and League Plaintiffs lacked standing to challenge many of HB 1205's provisions.

As the district court found, considering prospective injunctive relief, "the testimony RTCW introduced at trial failed to demonstrate that it intends to proceed with collecting signatures for the 2028 petition initiative cycle for any ballot initiative." Doc.679 at 10. "At most, Ms. Martin [RTCW's campaign coordinator] testified that RTCW is still a registered political committee and would remain registered for the next election cycle." Doc.679 at 10-11. "[T]he petition-gathering cycle has now ended for the 2026 general election, and RTCW has not demonstrated that it is currently subject to, or will imminently be subjected to, any of the challenged requirements going forward." Doc.679 at 11. "This is because RTCW has not demonstrated that it is currently engaging in petition gathering or that it imminently intends to do so for the 2028 general election." Doc.679 at 11. "Instead, RTCW has taken a wait-and-see approach and seeks prospective relief that is premised only on past injuries and hypothetical future injuries in the event it decided to pursue another petition-gathering campaign." Doc.679 at 11. Taken together, this made prospective relief useless for provisions other than the **Ten-Day Return Deadline** and the **Fines** provisions, which could still impact RTCW Plaintiffs. Doc.679 at 15.

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League Plaintiffs had another problem. They don't sponsor initiatives. They only collect petitions for initiatives sponsored by others. Tr.1577:6-23 (Lowe-Minor); Tr.1467:12-15 (Proaño). The district court didn't reach League Plaintiffs' standing for

most claims because others had standing to challenge the same provisions, except for the equal protection challenge to the **Petition Circulator Eligibility** provision concerning non-citizens. Doc.679 at 24-25.

On that claim, the district court concluded that the League of Women Voters and LULAC had neither associational nor organizational standing. The court explained that the only non-citizen League member provided in support of the claim was Cecilia González Herrera. Doc.679 at 25. Although Ms. Herrera testified that she "intends to return to live near her family in Florida and circulate petitions in the future for the RTCW ballot initiative in the event the non-citizen ban is enjoined, she provided few specifics about those plans." Doc.679 at 25. The court also explained that "it is not clear that RTCW has an active petition gathering campaign at this time or will in the imminent future." Doc.679 at 25. Because her testimony didn't "provide a basis for demonstrating a concrete and ongoing or imminent injury with respect to the non-citizen ban," the League lacked associational standing. Doc.679 at 25-26.

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The district court concluded that the League failed to establish organizational standing as well. The court explained that "the League introduced evidence that the current president is aware of only one noncitizen who has engaged in petition circulation in the past on a volunteer basis." Doc.679 at 26 n.25. "This is hardly the 'heavy reliance' on noncitizen participation that the plaintiffs demonstrated in this Court's earlier case." Doc.679 at 26 n.25 (discussing *Fla. State Conf. of the NAACP v. Byrd*, 680 F. Supp. 3d 1291, 1300, 1308 (N.D. Fla. 2023)). Moreover, the court found that the League

"fail[ed] to highlight the evidence as it pertains specifically to the non-citizen ban and its effects on the League or its activities." Doc.679 at 26.

The non-citizen member who testified for LULAC was Karen Patricio. Doc.679 at 27. "Ms. Patricio did not identify any particular ballot initiative for which she would currently gather petitions but for the non-citizen ban." Doc.679 at 28. "Her generalized testimony, on its own, therefore does not confer standing on LULAC to challenge the non-citizen ban, as any injury to Ms. Patricio is not ongoing or imminent, but rather hypothetical and speculative based on this record." Doc.679 at 28. The court also addressed the testimony of LULAC's CEO Juan Proaño, who discussed the involvement of non-citizens in LULAC. Doc.679 at 28. "Mr. Proaño testified that LULAC has non-citizen members, that some of these members collected signed petitions for 2018 and 2024 campaigns, and that some non-citizen members plan to collect petitions in the future." Doc.679 at 28. The court found that these plans amounted to no more than "someday intensions," especially because "the ballot initiative sponsors that LULAC had recently been interested in assisting have not demonstrated that they have an active petition-gathering campaign (RTCW) or have switched to an online distribution model only (FDH)." Doc.679 at 28-29. Based on the testimony of Ms. Patricio and Mr. Proaño, the court concluded that LULAC didn't have associational standing for the equal protection claim. Doc.679 at 29; *see also LaCroix v. Lee County*, 819 F. App'x 839, 841-43 (11th Cir. 2020) ("speculative" plans that lack "expected times, topics, locations, or surrounding context" aren't enough for standing).

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Lastly, the district court concluded that "LULAC's attempt to demonstrate organizational standing to challenge the noncitizen ban also falls short." Doc.679 at 29. The court explained that any "past injury, on its own, does not amount to a cognizable injury for purposes of seeking prospective relief." Doc.679 at 29. As for future petition-gathering work, "this activity is highly dependent on the existence of an active ballot initiative and petition-gathering campaign for LULAC's Florida members to choose to take part in." Doc.679 at 29.

The League Plaintiffs also included two individuals. For Plaintiff Cecile Scoon, the district court concluded that she failed to establish standing because "her testimony largely focused on the impacts HB 1205 had on the League's activities with respect to petition gathering for FDH and RTCW's ballot initiatives for the 2026 campaign cycles, which have now ended." Doc.679 at 22. "Given this lack of specificity concerning the new election cycle, Ms. Scoon has not demonstrated a current or imminent injury with respect to the challenged provisions." Doc.679 at 22.

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For Plaintiff Debra Chandler, the district court concluded that "Ms. Chandler has not demonstrated a cognizable injury in fact sufficient to challenge the prohibition on copying or retaining voter information." Doc.679 at 22. However, the court otherwise found that "Ms. Chandler has demonstrated that, but for other challenged provisions currently chilling her petition-gathering efforts, she would continue gathering signed petitions." Doc.679 at 22-23. On this basis, the court concluded that "Ms. Chandler has demonstrated that she has standing, as an individual, to challenge the

registration requirements, the criminal prohibitions against filling in missing information on signed petitions and possessing more than 25 signed petitions as an unregistered petition circulator, and the investigation provision." Doc.679 at 24.

The district court's conclusions on standing weren't made in a vacuum. They were made based on a record developed during a two-week trial. The court found that FDH Plaintiffs had standing to challenge certain provisions because "[u]nlike the other two ballot initiative sponsors in this case, FDH introduced substantial evidence demonstrating a concrete intention of pursuing another petition-gathering campaign for a proposed statewide ballot initiative to expand Medicaid eligibility for the 2028 general election." Doc.679 at 15. And its conclusion that Ms. Chandler had standing to challenge certain provisions but Ms. Scoon didn't shows that the court carefully evaluated the trial evidence plaintiff by plaintiff. Doc.679 at 21-24.

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Plaintiffs ask this Court to ignore the nature of the relief they sought below and its effect on their standing obligations. The law is clear: "For a plaintiff seeking prospective relief to have standing, he 'must show a sufficient likelihood that he will be affected by the allegedly unlawful conduct in the future.'" *Koziara v. City of Casselberry*, 392 F.3d 1302, 1305 (11th Cir. 2004) (quoting *Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1265 (11th Cir. 2001)). "Moreover, a plaintiff seeking only injunctive or declaratory relief must prove not only an injury, but also 'a real and immediate threat of future injury in order to satisfy the injury in fact requirement.'" *Id.* (internal quotations omitted) (quoting *Nat'l Parks Conser. Ass'n v. Norton*, 324 F.3d 1229, 1241 (11th Cir.

2003)). RTCW and League Plaintiffs failed to satisfy their obligations to establish standing for a prospective remedy.

B. At the least, Plaintiffs' claims are now moot.

The same trial evidence shows that these claims are, at the least, moot. "If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed." *Troiano v. Supervisor of Elections in Palm Beach Cnty.*, 382 F.3d 1276, 1282 (11th Cir. 2004). Mootness "derives directly from the case-or-controversy limitation because an action that is moot cannot be characterized as an active case or controversy." *Id.* The test for mootness turns on whether courts retain the ability to provide "meaningful relief" to the plaintiff. *Id.*

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For the same reasons that Plaintiffs lack standing, "meaningful relief" isn't available to them. RTCW Plaintiffs aren't running an initiative campaign for 2026 and haven't undertaken any serious efforts for 2028. League Plaintiffs don't have their own initiative, and they haven't identified a future initiative that they plan to help with.

Plaintiffs invoke the "capable of repetition yet evading review" exception to mootness. But "this exception is narrow, and applies only in exceptional situations." *Soliman v. United States*, 296 F.3d 1237, 1242 (11th Cir. 2002) (quotations omitted). It only applies when there's a "reasonable expectation" that "materially similar" circumstances will recur. *Hall v. Sec'y, State of Ala.*, 902 F.3d 1294, 1298 (11th Cir. 2018). "[R]easonable expectation requires more than a theoretical possibility." *Id.*

Theoretical possibility is all that Plaintiffs offer. RTCW Plaintiffs have made no meaningful efforts for the 2028 election cycle. League Plaintiffs rely on others to sponsor initiatives. More generally, ballot initiatives differ from other election-related contexts where the exception has applied. *Cf. Davis v. FEC*, 554 U.S. 724, 735-36 (2008) (applying exception in the context of congressional elections); *Storer v. Brown*, 415 U.S. 724, 737 n.8 (1974) (same). As the district court explained, "before the Legislature enacted the challenged legislation at issue in this case, the chance of successfully proposing and passing a statewide ballot initiative was an uphill battle unless a sponsor was able to marshal enormous resources and put them to work in a massive statewide campaign." Doc.679 at 2-3. Unlike a congressional election, for example, a ballot-initiative campaign isn't certain to happen, with or without HB 1205.

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The district court's distinction between this case and one involving third-party voter registration organizations further shows why the exception doesn't apply. The court explained that Plaintiffs' reliance on a case involving a voter registration organization was misplaced "inasmuch as voter registration can happen any time and is not dependent on a third party, such as an initiative sponsor, creating a window of opportunity that would allow volunteers to gather signatures." Doc.679 at 29 n.26 (discussing *Fla. State Conf. of the NAACP*, 680 F. Supp. 3d 1291). "Ballot initiative petition circulation, on the other hand, inherently depends upon initiative sponsors and the existence of an active campaign for a proposed ballot initiative." Doc.679 at 29 n.26; *see also Hall*, 902 F.3d at 1299 (declining to apply exception because "[t]he issue presented in this

case" would "recur, if at all, with far less frequency than the issue presented in *Storer* and other cases that involve challenges to election laws as applied during regular election cycles").

IV. Plaintiffs don't have substantive due process claims against the Ten-Day Return Deadline or Fines provisions.

RTCW Plaintiffs further argue that the district court erred by not addressing their substantive due process claims against the **Ten-Day Return Deadline** and the **Fines** provisions. That argument fails.

Start with the district court's order. On the merits of the challenge to the **Ten-Day Return Deadline** and the **Fines** provisions, the court said this: "Based on the trial record, this Court remains unpersuaded that the return deadline, fines for late returns, and fines for erroneous returns constitute a severe burden on Plaintiffs' speech in violation of their First Amendment rights." Doc.679 at 34. "Instead, this Court agrees with Defendants that these provisions fall within the heartland of permissible State regulation of the ballot initiative process—as one of the many 'restrictions a state might impose on its initiative process' that does 'not implicate First Amendment concerns.'" Doc.679 at 34 (quoting *Biddulph*, 89 F.3d at 1500). Provisions that fall "within the heartland of permissible State regulation of the ballot initiative process" don't violate substantive due process. That resolved the matter.

Even if the district court's order didn't resolve the claims, no remand is needed. "[I]t is established that a remand is not required if a complete understanding of the

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issues may be had without the aid of separate findings." *Armstrong v. Collier*, 536 F.2d 72, 77 (5th Cir. 1976) (quotation omitted); *see also Singleton v. Wulff*, 428 U.S. 106, 121 (1976) (explaining that "[c]ertainly there are circumstances in which a federal appellate court is justified in resolving an issue not passed on below, as where the proper resolution is beyond any doubt"); *Ryan v. Aina*, 222 F. App'x 801, 805 (11th Cir. 2006) (same).

The claims present a question of law that both sides addressed below. No facts are disputed. RTCW Plaintiffs agree that the claims shouldn't be remanded. RTCW Init. Br. at 62, 64-65.

These substantive due process claims ultimately fail on the merits. To assert a substantive due process claim, a plaintiff must show that the "right at issue" is "deeply rooted in [our] history and tradition" and "essential to our Nation's scheme of ordered liberty." *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1220 (11th Cir. 2023) (alteration in original) (internal quotation omitted) (quoting *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237 (2022)). Such a claim requires a "historical inquiry specifically tied to the particular alleged right at issue." *Id.* at 1221. It requires an "analysis of whether that specific right is deeply rooted in our nation's history and tradition." *Id.* at 1225. Asserting a right "at a high level of generality" will not do. *Id.* at 1224; *see also Morrissey v. United States*, 871 F.3d 1260, 1269 (11th Cir. 2017) (requiring specificity).

But RTCW Plaintiffs assert only a general right against "punishment without being personally guilty" and "arbitrary and irrational government action." RTCW Init. Br. at 65 (quotation omitted). Neither of the cases Plaintiffs cite involved petition

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initiatives or anything related to elections. *See St. Ann v. Palisi*, 495 F.2d 423 (5th Cir. 1974); *Kentner v. City of Sanibel*, 750 F.3d 1274 (11th Cir. 2014). Nor do Plaintiffs offer any historical analysis showing a specific, fundamental right not to be fined when signed petitions are delivered late or to the wrong county. On the contrary, as the district court found, the challenged provisions "fall within the heartland of permissible State regulation of the ballot initiative process—as one of the many 'restrictions a state might impose on its initiative process.'" Doc.679 at 34 (quoting *Biddulph*, 89 F.3d at 1500).

Because Plaintiffs fail to establish a fundamental right, the challenged provisions receive rational basis review and enjoy a "strong presumption of validity." *Eknes-Tucker*, 80 F.4th at 1224 (quoting *Dobbs*, 597 U.S. at 301). They easily survive that review. As explained above, the Legislature found that existing fines were "inadequate deterrents," DX 1 at 6, and these provisions rationally further the State's interests in preventing fraud and ensuring that signed petitions reach election officials promptly.

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V. The non-citizen provision doesn't violate equal protection.

Plaintiffs' final claims arise under the equal protection clause. RTCW Plaintiffs say that the district court didn't address the claim. League Plaintiffs argue that the court wrongly held that they lacked standing. As an initial matter, both sets of Plaintiffs lack standing for the reasons discussed above. *Supra*; *see also* Doc.679 at 24-30. RTCW isn't running a campaign for 2026 and hasn't undertaken any serious effort for 2028. RTCW Plaintiffs thus don't stand to be harmed by the **Petition Circulator Eligibility**

provision for non-citizens. League Plaintiffs don't sponsor initiatives and lack definitive plans to collect petitions with or without the help of non-citizens.

Even if the district court had to reach the merits, no remand is needed. Like the substantive due process claims, the equal protection claim presents an undisputed question of law that shouldn't be remanded. RTCW Init. Br. at 67 n.18 (agreeing with same).

On the merits, the non-citizen provision falls within the political-function exception to the Fourteenth Amendment's Equal Protection Clause. That exception "applies to laws that exclude aliens from positions intimately related to the process of democratic self-government." *Bernal v. Fainter*, 467 U.S. 216, 220 (1984). "The rationale behind the political-function exception is that within broad boundaries a State may establish its own form of government and limit the right to govern to those who are full-fledged members of the political community." *Id.* at 221. "Some public positions are so closely bound up with the formulation and implementation of self-government" that the State "is permitted to exclude from those positions persons outside the political community." *Id.* As one court put it, "[b]allot initiatives are the quintessential form of direct democracy." *OPAWL v. Yost*, 118 F.4th 770, 778 (6th Cir. 2024).

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Plaintiffs themselves claim that the ballot initiative process "serves as a check and balance against legislative and executive power by giving voters a narrow but direct voice in amending their fundamental organic law." RTCW Init. Br. at 18 (quotations omitted). By Plaintiffs' own account, petition circulators—who collect and deliver the signed petitions that place constitutional amendments on the ballot—hold

"nonelective" positions that "participate directly in the formulation, execution, or review of broad public policy." *Sugarman v. Dougall*, 413 U.S. 634, 647 (1973). "[E]xcluding non-citizens from certain activities can advance a compelling interest when those activities form part of 'the process of democratic self-government.'" *OPAWL*, 118 F.4th at 777-78 (quoting *Bluman v. FEC*, 800 F. Supp. 2d 281, 287 (D.D.C. 2011) (Kavanaugh, J.)); *see also Bluman*, 800 F. Supp. 2d at 287-88 (upholding restrictions on foreigners contributing to campaigns).

Nor is the provision underinclusive. Plaintiffs point out that non-citizens who work for the government may collect and handle sensitive voter information. But those individuals undergo background checks. *See* Fla. Stat. §§ 435.01-435.12, 448.09. Volunteers collecting petitions undergo no such checks. Tr.68:11-13 (Acosta). And collecting signed petitions differs from donating to an initiative campaign. It carries a responsibility to voters—sponsors and their circulators act as fiduciaries to the voters who sign, Fla. Stat. § 100.371(7)(a)—that donating doesn't.

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CONCLUSION

For the foregoing reasons, this Court should affirm the decision below.

Dated: October 13, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with Federal Rule of Civil Procedure 32 because it contains 12,999 words, not counting the items excluded from the length limit, and complies with the type-volume requirements.

Dated: October 13, 2026 /s/ Mohammad O. Jazil
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed on CM/ECF.

Dated: October 13, 2026 /s/ Mohammad O. Jazil
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