

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

FLORIDA DECIDES HEALTHCARE,
INC., et al.,

Plaintiffs,

v.

Case No. 4:25-cv-211-MW-MAF

CORD BYRD, in his official capacity as
Secretary of State of Florida, et al.,

Defendants.

**THE SECRETARY AND ATTORNEY
GENERAL'S RESPONSE IN OPPOSITION TO
PLAINTIFFS' SECOND PRELIMINARY INJUNCTION MOTIONS**

INTRODUCTION

Floridians can change their constitution. Fla. Const. art. XI, § 3. But Plaintiffs want to do so by hiring out-of-state vendors who can dodge the State’s subpoenas, by employing non-resident and non-citizen circulators who lack ties to Florida and can’t even vote on initiative petitions, and by relying on unregistered volunteers who lack training and oversight. Plaintiffs contend that the U.S. Constitution allows them to do all this. It does not. Plaintiffs also contend that the U.S. Constitution excuses them from providing government-issued information to the government. It does not. And Plaintiffs insist that the *process* for collecting and submitting completed petitions is no different than a *conversation* one person has with another to rally support for a cause. It is not. The conversation is speech. Everything after is conduct. That’s consistent with the “practical wisdom” in our First Amendment jurisprudence that allows the State to investigate, prosecute, and prevent petition fraud—a problem that persists in Florida. *Terminiello v. City of Chicago*, 337 U.S. 1, 37 (1949) (Jackson, J., dissenting). Plaintiffs aren’t entitled to the preliminary relief they seek.

BACKGROUND

I. Plaintiffs’ Motions

There are four primary plaintiffs groups at this stage: (1) the Florida Decides Healthcare Plaintiffs, Doc.169; (2) the Smart & Safe Plaintiffs, Doc.165; (3) the Florida Right to Clean Water Plaintiffs, Doc.173; and (4) the League of Women Voters Plaintiffs, Doc.175. (A fifth, the Poder Latinx Plaintiffs, joined the Florida Right to

Clean Water Plaintiffs’ and the League of Women Voters Plaintiffs’ preliminary injunction motions. Doc.214.) To assist this Court, the Secretary and Attorney General provide a chart that breaks down each group’s challenges to House Bill 1205. Doc.245-

1. And this response groups like arguments together when responding to them.

The Plaintiff groups collectively challenge the following categories:

- **Petition Circulator Eligibility:** requires petition circulators to be, and to attest that they are, U.S. citizens and Florida residents; requires circulators who collect, deliver, or physically possess more than twenty-five signed petition forms of non-immediate family members (or their own signed forms) to be registered with the State, which then requires circulators to provide the State with their driver license, Florida identification number, or social security number; invalidates signed petitions that are submitted by ineligible or unregistered circulators; and imposes fines for violations.
- **Circulator Affidavit:** requires petition circulators to sign completed petitions and provide their name, address, and circulator number or barcode on petitions.
- **Moratorium:** pauses processing and verification of signed petitions by the supervisors from July 1, 2025 to September 30, 2025.
- **Criminal:** criminalizes certain violations of the **Petition Circulator Eligibility** provisions.

Because the **Criminal** provisions concern the **Petition Circulator Eligibility** provisions, the Secretary and Attorney General fold them into “**Petition Circulator Eligibility** provisions” for the purposes of this response.

II. Problems with the Initiative Petition Process and Plaintiffs

As explained in the first round of preliminary injunction briefing, HB1205 wasn’t created in a vacuum. There’s been “widespread petition fraud in connection with a

number of initiative petitions.” Doc.103-2 at 8. Petition circulators have fraudulently filled out petitions for the deceased, the fictitious, and the still-living. Doc.105 at 4-14. The last category even includes staff from the supervisors’ offices responsible for verifying the petitions. Doc.105 at 4-14.

Investigating fraud has proven difficult. Petition sponsors hire out-of-state vendors to gather and collect signed petitions, which has the effect of “hamper[ing]” the State’s ability to enforce its laws and issue “subpoena[s].” Doc.105 at 8. The same problem applies to non-resident circulators: the “out-of-state residency of key suspects and witnesses has made for significant investigative challenges.” Doc.105 at 8.

Again, many of these problems were detailed in the first round of briefing. But the following points bear emphasis.

Problems with Non-Residents. “Many paid circulators have few if any ties to Florida and list addresses in other, sometimes faraway, states. Some appear to be transient, going from state to state to do similar work.” Doc.105 at 8-9. “The out-of-state residency of key suspects and witnesses has made for significant investigative challenges.” Doc.105 at 8-9. For example, “two paid circulators arrested for petition fraud in Florida also face charges for petition fraud in Kansas after leaving Florida.” Doc.105 at 8-9 (cleaned up).

Plaintiffs’ declarations illustrate the transient nature of petition circulators. Declarants reside in places like California, Michigan, and Texas. Doc.166-3 ¶ 2; Doc.166-4 ¶ 2; Doc.168-3 ¶ 2. And declarants worked on petition campaigns in

Arizona, Arkansas, California, Georgia, Illinois, Maryland, Michigan, Missouri, Nebraska, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Washington, Wisconsin, and Wyoming—in addition to Florida. Doc.166-3 ¶¶ 4-5; Doc.166-4 ¶ 5; Doc.166-6 ¶¶ 3-4.

Some declarants make clear their lack of ties to Florida. One Smart & Safe declarant says: “I have no reason to be in Florida other than my desire to see the Initiative succeed on the ballot.” Doc.166-4 ¶ 13. Another explains that non-resident circulators’ “only reason for being in Florida is to collect petitions.” Doc.166-1 ¶ 9.

It’s also clear that non-resident circulators are hired by out-of-state corporations. Smart & Safe uses a vendor incorporated in Delaware and with a principal address in Missouri. Doc.105 at 11. Its consultant isn’t incorporated in Florida, either. Doc.105 at 11. Florida Decides Healthcare uses the Outreach Team, which appears to be incorporated in Delaware and has its principal address in New York. Doc.168-1 ¶ 6. PCI, the corporation hired by Floridians Protecting Freedom (as identified in the 2024 Office of Election Crimes and Security report), is based in California. Doc.105 at 7. PCI, of course, is the out-of-state entity that didn’t respect the State’s subpoena power as it worked on a ballot petition. Doc.105 at 7.

Problems with Volunteers. Petition sponsors often rely on volunteer circulators. “[A]nyone can volunteer from anywhere,” says one declarant. Doc.168-2 ¶ 8. “We ¶ do not screen our volunteers,” says another. Doc.168-2 ¶ 9. Volunteers are simply recruited through “text, social media, and Mobilize—a web-based volunteer

platform.” Doc.168-2 ¶ 6; Doc.171-1 ¶ 14. And a volunteer can be anyone who walks into the “Manatee County Democratic Party” and “pick[s] up petitions and drop[s] off signed ones.” Doc.168-2 ¶ 21.

Volunteer training (or lack thereof) is also an issue. Florida Decides Healthcare’s volunteers “complete a simple 30-minute Zoom training.” Doc.168-2 ¶ 7. But “[n]ot all volunteers attend a training,” making this simple training an optional hurdle for the busy volunteer. Doc.168-2 ¶ 7.

Oversight remains a problem, too. Doc.105 at 12. Petition sponsors “have no way to manage” volunteers, especially if “they are working through a partner organization or printing petitions at home.” Doc.168-2 ¶ 25. “And volunteers do not always know whether they’ve completed the necessary requirements. There are already so many variables when it comes to volunteers.” Doc.168-2 ¶ 25.

We’re told that volunteer circulators “are not accountable to the same extent that someone in a paid position is.” Doc.168-1 ¶ 9. Volunteers “often work spontaneously, will print off petition forms at home and circulate them when they go out to events like farmers’ markets, and then mail or bring them to our hubs.” Doc.168-1 ¶ 10. There’s “no real way of controlling whether, when, and how volunteers return petitions. All [the sponsor] can do is attempt to provide support and guidance.” Doc.91-2 at 3 ¶ 8. “But [the sponsor] cannot control” what “volunteers actually” do. Doc.91-2 at 3 ¶ 8.

Volunteer circulators may even “submit petitions without” sponsors’ “involvement by copying a blank petition form received from another volunteer and

submitting completed petitions directly to their local supervisor.” Doc.168-1 ¶ 12. Petition sponsors say that they do “not impose additional restrictions or requirements” on volunteers. Doc.168-2 ¶¶ 7-8.

That said, according to Plaintiffs, volunteer circulators care deeply about privacy—their own. Volunteer circulators don’t want to share “personal identification documents” with petition sponsors and the State. Doc.168-1 ¶ 15. One declarant claims that she fears providing the State “with highly sensitive personal identifying information,” like her *State*-issued “Florida driver license number and the last four digits of” her “social security number.” Doc.174-3 ¶ 24. *See also* Doc.105 at 28-29 (discussing public-record exemptions). The concerns are ironic, because Plaintiffs seem fine with copying and retaining information from signed petitions. Doc.105 at 12.

To put a finer point on it: the Office of Election Crimes and Security’s reports highlight the problems with paid, registered petition circulators. *E.g.*, Doc.103-2. It’s significantly more difficult to find, investigate, and prosecute problems caused by volunteer circulators. Having some guardrails for volunteers, especially those collecting lots of petitions, makes sense.

Problems with Non-Citizens. There’s been a greater focus on non-citizen participation in Florida’s electoral process. “Florida has continued to investigate and make criminal referrals through” the Office of Election Crimes and Security “for instances of non-citizen voting.” Doc.103-2 at 26. Arrests have followed. Doc.103-2 at 26. Criminal investigations remain open. Doc.103-2 at 26.

This Court is also aware of the issues with non-citizens and the voter-registration process. In *Florida State Conference of Branches and Youth Units of the NAACP v. Byrd*, the State showed at trial that with “non-citizens, there’s always a risk that they can leave the State, given their strong ties to other countries, and not turn in” voter registration documentation “on time.” 4:23-cv-215, Doc.311 at 13 (N.D. Fla. Apr. 29, 2024). The evidence in the third-party voter registration case revealed that “three noncitizen canvassers with Mi Vecino,” a 3PVRO, “were terminated due to misconduct in Orange County,” and “in 2022, a Hispanic Federation [3PVRO] canvasser left for Mexico for ten days and failed to timely deliver three voter-registration applications.” 4:23-cv-215, Doc.311 at 13 (citations and quotation marks omitted).

If non-citizens are voting in Florida’s elections, and others are leaving the country without turning in third-party voter registration forms entrusted to them, then it’s reasonable to bar non-citizens from collecting initiative petition forms as others have already done. *See, e.g.*, Alaska Stat. § 15.45.105; N.D. Const. art. III, § 3. Petition forms are another species of election-related documents entrusted to someone else.

What’s more, the information before the 2025 Florida Legislature highlighted the difficulty inherent in investigating individuals and entities across state lines. *E.g.*, Doc.103-2 at 8. It’s reasonable to infer from that evidence that chasing individuals who leave the country is harder still.

The Need for a Moratorium. The three-month “processing hold” for petitions submitted to supervisors makes sense as well. It’s the Secretary’s understanding that the

legislature added this provision at the behest of Florida’s supervisors of elections. The provision gives the supervisors the time needed to successfully implement the bill—to (1) accurately and efficiently scan petitions, (2) extract data from the petitions into useable formats (like spreadsheets), and (3) securely transfer material to the Florida Department of State. Testing each step is critical given the continued scrutiny directed at supervisors. Petitions can be collected during this processing hold and petitions *must* be timely submitted during this three-month period. And, in the end, the relevant deadline is February 1—the date by which all signed petitions must be submitted to the supervisors for verification before placement on the ballot. *See* Fla. Stat. § 100.371(11)(a) (setting deadline and requiring supervisors to “promptly verify”).

* * *

Finally, a word about a past practice to regulate petition gathering that seems to have failed. Since 2019, the State has banned per-signature compensation for petitions. Fla. Stat. § 104.186 (2019). In 2022, the State made per-signature compensation a felony. Fla. Stat. § 104.186 (2022). Per-signature compensation, the thinking went, gave circulators a reason to sit with a phonebook (or the voter roll) and simply copy names for submission. But the practice remained “widespread” during the 2024 election cycle. Doc.103-2 at 9. The failure of past measures contributed to the Florida Legislature’s decision to enact the reforms that are now being challenged. *See* Fla. HB 1205 ll. 247-49 (“the evidence brought forward indicates numerous instances of petition circulators being paid per signature”), ll. 254-56 (same).

LEGAL STANDARD

To obtain a preliminary injunction, a plaintiff must demonstrate “(1) a substantial likelihood of success on the merits; (2) that the preliminary injunction is necessary to prevent irreparable injury; (3) that the threatened injury outweighs the harm the preliminary injunction would cause the other litigant; and (4) that the preliminary injunction would not be averse to the public interest.” *Chavez v. Fla. SP Warden*, 742 F.3d 1267, 1271 (11th Cir. 2014). The plaintiff must also establish standing to sue.

ARGUMENT

Plaintiffs’ motions should be denied. Standing remains a problem for Plaintiffs. So do the merits. The other elements for a preliminary injunction favor the State, too.

I. Plaintiffs’ Standing Issues Persist

The Secretary and Attorney General highlight some of the standing problems with Plaintiffs’ challenges. *See generally Harrell v. Fla. Bar*, 608 F.3d 1241, 1253-54 (11th Cir. 2010) (discussing standing in a First Amendment context).

A. The Florida Right to Clean Water Plaintiffs and the League of Women Voters Plaintiffs challenge the **Circulator Affidavit** provision. According to them, circulators won’t collect petitions if their names and addresses are on the petitions. They gesture to unnamed and unidentified volunteers, Doc.171-1 ¶ 70, Doc.171-7 ¶ 18, Doc.174-1 ¶ 38, and rely on declarants who are merely “uncomfortable” with the provision, Doc.171-4 ¶ 17, don’t like the provision, Doc.171-5 ¶ 21, and are “hesitant,” Doc.171-2 ¶ 27. The problem is that Plaintiffs haven’t identified a circulator who won’t circulate

petitions but for the **Circulator Affidavit** provision. This creates a standing problem for Plaintiffs. *Am. All. for Equal Rights v. Fearless Fund Mgmt., LLC*, 103 F.4th 765, 775 (11th Cir. 2024); *LaCroix v. Lee County*, 819 F. App'x 839, 841-43 (11th Cir. 2020).

The closest Plaintiffs get is Debra Chandler. Doc.174-3 ¶ 28. But her fears of disclosing her personal information ring hollow, considering the information she lists on her Florida Bar member profile (picture, name, address, county, email address, phone number, education). <https://perma.cc/WTZ2-C53Z>. Even so, Ms. Chandler hasn't expressly stated that she intends to collect more than twenty-five signed petitions (or has a plan to do so), but won't do it because of the **Circulator Affidavit** provision. At most, she states that "it was common for me to collect more than 25 petitions in a single day" and in the past "collected somewhere in the neighborhood of 40 to 50 signed petitions." Doc.174-3 ¶¶ 10, 36. *See also* Doc.174-3 ¶ 23 ("Now, if I plan on collecting more than 25 petitions, I must register as a petition circulator."). That's not good enough for a fear-based injury. *LaCroix*, 819 F. App'x at 841-43.

What's more, a volunteer's fear of injury doesn't give the sponsoring entity (or a merely interested entity like the League of Women Voters) standing to sue. Volunteers aren't members of the organization; some "indicia of membership" is needed for the volunteer's injury to give the entity standing. *Doe v. Stincer*, 175 F.3d 879, 885 (11th Cir. 1999) (citing *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 344-45 (1977)). *See also Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1249 (11th Cir. 2020) ("five of the six

organizations failed to even allege, much less prove, that they have *any* members,” making that “failure” “fatal to their associational standing”).

As such, there’s no standing to challenge the **Circulator Affidavit** provision.

B. The Florida Decides Healthcare Plaintiffs don’t have standing to challenge the **Moratorium** provision. According to their declarations, Florida Decides Healthcare (1) fears that supervisors will face backlogs of petitions after the moratorium ends, (2) fears that funders may not give them funds, (3) fears that its petition won’t qualify for the ballot or Florida Supreme Court review, because “petition collection is nearly nonexistent” in the winter, (4) alleges that it won’t “timely” receive “feedback” about its operations, (5) worries about a diversion of resources, and (6) fears that its volunteers will “lose the motivational factor.” Doc.168-1 ¶¶ 29-32, 36; Doc.168-2 ¶ 31. But these fears and allegations aren’t sufficient. They are speculative.

As the bill says, the moratorium is only a “processing hold” that applies to supervisors. Fla. HB 1265 ll. 1435-40. It doesn’t change Plaintiffs’ obligations. And, once the processing hold expires, supervisors must verify petitions in sixty days. Fla. Stat. § 100.371(11)(a). Therefore, at the absolute latest, Plaintiffs will receive results from the supervisors by November 30, 2025. Plaintiffs didn’t identify a single supervisor who stated that this deadline is infeasible or that the three-month processing hold would create some insurmountable backlog. The parade of horrors concerning insufficient funding, fewer petitions, the motivation of volunteers, and the like seemingly flow from the unsubstantiated assumption that the supervisors won’t get the job done.

Plaintiffs' alleged injuries also lack specifics. They fail to identify a single fundraiser who stated that he wouldn't provide them with funds because of the **Moratorium** provision. Plaintiffs fail to provide any evidence for why they must halt petition-gathering efforts in December or during a holiday festival, because of the **Moratorium** provision. Plaintiffs never explain how their pre-moratorium activities affect feedback for their post-moratorium activities. Plaintiffs identify no specific resource that is diverted from a specific planned event or specific program. And speculation about volunteer motivation, even if it's true, isn't a constitutional injury.

Plaintiffs' concerns become still more speculative when looking at their campaign finance data. Florida Decides Healthcare has been trying to get on the ballot since around 2019. Doc.245-2 at 2. And since February 2024, this particular sponsor has obtained only 19,000 or so signatures. Doc.245-2 at 2. With or without the **Moratorium** provision, or indeed HB1205, it's difficult to see how Florida law is impeding their efforts.

Again, it bears emphasis that Plaintiffs can still collect signed petitions, and submit signed petitions, while the three-month processing hold is in effect. The provision only pauses the supervisors' verification of submitted, signed petitions.

All told, the lack of specifics makes Plaintiffs' allegations and fears speculative. Plaintiffs lack standing. *LaCroix*, 819 F. App'x at 841-43.

II. Plaintiffs’ Constitutional Challenges Fail on the Merits

Turning to the first element for a preliminary injunction, Plaintiffs’ claims fail on the merits. None of the provisions violate the First or Fourteenth Amendments.

A. The Non-Resident Petition Circulator Eligibility Restrictions Comply with the First Amendment. (Smart & Safe Plaintiffs, Florida Decides Healthcare Plaintiffs, Florida Right to Clean Water Plaintiffs, League of Women Voters Plaintiffs)

HB1205’s **Petition Circulator Eligibility** non-resident restrictions comply with the First Amendment. To level set, nothing in the Florida Statutes prevents a person—any person—from speaking his or her mind on an issue regardless of his or her residency. It’s the collecting and processing of signed petitions that’s being regulated; “[n]on-residents are still free to speak to voters regarding particular measures.” *Initiative & Referendum Inst. v. Jaeger*, 241 F.3d 614, 617 (8th Cir. 2001). It’s thus the State’s position that no speech is being regulated, and its regulation of conduct should be upheld under a rational basis standard. *See Biddulph v. Mortham*, 89 F.3d 1491, 1500 (11th Cir. 1996).

But, to the extent the **Petition Circulator Eligibility** provisions regulate a “who” of petition circulation, *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1099 (10th Cir. 2006) (en banc), the residency requirements still survive scrutiny. Working through the exacting scrutiny test from *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182, 197 (1999), shows that the “State has a compelling interest in preventing fraud.” *Jaeger*, 241 F.3d at 616. *See also Eu v. San Francisco Cnty. Democratic Central Comm.*, 489 U.S. 214, 231 (1989); *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006); *Brnovich v. DNC*, 594

U.S. 647, 685 (2021). The “residency requirement allows” the State “to protect the petition process from fraud and abuse by ensuring that circulators answer to” the State’s “subpoena power,” allowing it to “police the petition process more easily.” *Jaeger*, 241 F.3d at 616. That’s something with which the State of Florida has struggled. Doc.105 at 7. Plaintiffs’ transient circulators don’t alleviate these concerns; Florida has an interest in not chasing circulators from job to job in state to state to investigate possible fraud. *Cf. Buckley*, 525 U.S. at 197 (“assuming” the “residence requirement would be upheld as a needful integrity-policing measure”); *id.* at 211 (Thomas, J., concurring in the judgment) (same); *id.* at 230 (Rehnquist, C.J., dissenting) (“I would not quarrel with” a “holding that a State may limit petition circulation to its own residents”).

Again, it bears emphasis that any non-resident can still speak about initiative petitions in Florida. They can still advocate marijuana usage, Doc.166-3 ¶ 9, water quality, Doc.171-2 ¶ 13, or any other matter. Non-residents can even point voters to where petitions are available for completion. That speech isn’t restrained in the slightest. Instead, non-residents can’t take and then deliver signed petitions; that’s mere conduct.

Plaintiffs disagree. First, they contend that the **Petition Circulator Eligibility** provisions limit the number of voices who can convey their messages, making it less likely that they will prevail at the ballot. *E.g.*, Doc.165 at 11; Doc.175-1 at 14. This, however, isn’t the right First Amendment test (and it ignores that non-residents can continue to talk about and encourage Floridians to support an initiative). Every

regulation causes some sort of limitation, and Plaintiffs’ test would completely expand the “narrow circumstances” warranting heightened review. *Biddulph*, 89 F.3d at 1500.

Plaintiffs then note that other circuits have reached decisions in their favor on this issue. *E.g.*, Doc.165 at 12 (First, Third, Fourth, Seventh, Ninth, Tenth); Doc.173-1 at 25 n.5; Doc.175-1 at 18 n.2. True to an extent. Five circuits haven’t yet opined—including the Eleventh. The Eighth Circuit’s decision in *Initiative & Referendum Institute v. Jaeger* also favors the State. What’s more, Plaintiffs don’t note if the extra-circuit precedent reviewed residency requirements under exacting scrutiny (the right standard) or strict scrutiny (the wrong standard). *See Meyer v. Grant*, 486 U.S. 414, 420 (1988) (“this case involves a limitation on political expression subject to exacting scrutiny”); *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 608 (2021) (explaining exacting scrutiny).

Turning back to the Eighth Circuit’s decision, *Jaeger*, Plaintiffs state that *Jaeger* wrongly considered petition sponsors’ other means of communication. *E.g.*, Doc.165 at 12-13 n.6. That misses the point. What matters is that the State has a sufficiently strong interest (which it does in eliminating petition fraud) and that the regulation furthers that interest in something other than a blunderbuss way (which it does because tracking down alleged wrongdoers outside Florida has proven difficult, yet the State is still allowing out-of-state individuals to participate in every aspect of a petition drive except the custody and delivery of completed petitions). The *Jaeger* court recognized this problem and approved the State’s solution.

Plaintiffs then propose alternatives. They contend that, instead of the **Petition Circulator Eligibility** requirements, the State could have required “non-residents to enter into agreements with the state to provide their relevant contact information and agree to return in the event of a protest,” as mentioned in *Yes on Term Limits, Inc. v. Savage*, 550 F.3d 1023 (10th Cir. 2008), and *Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008). Doc.165 at 17; *see also* Doc.169-1 at 17. There are problems with this argument.

Florida already tried the approach Plaintiffs suggest. It hasn’t worked. Specifically, since 2019, circulators have been required to provide the Secretary with their “name, permanent address, temporary address, if applicable,” and “address in this state at which the[y] will accept service of process related to disputes concerning the petition process.” § 3, Ch. 2019-64, Laws of Fla. A non-resident circulator also “consents to the jurisdiction of the courts of this state in resolving disputes concerning the petition process.” § 3, Ch. 2019-64, Laws of Fla. But problems persist.

As shown above, non-resident circulators move around a lot. That makes pinning down accurate contact information difficult. Even with accurate contact information, the State’s task remains difficult. The State knew the contact information of PCI, the California petition-circulation corporation for Floridians Protecting Freedom. PCI still stonewalled the State. *Supra*.

Plaintiffs’ two cited cases, moreover, analyzed residency requirements under strict scrutiny, not exacting scrutiny, as Supreme Court precedent requires. *Savage*, 550

F.3d at 1029 (“strict scrutiny applies”); *Nader*, 531 F.3d at 1036 (“strict scrutiny applies”). These cases applied the wrong standards and got the wrong result.

Not content, the Smart & Safe Plaintiffs go after the Office of Election Crimes and Security report. Doc.165 at 15. They say that the “attorney for Floridians Protecting Freedom explain[ed] that FPF had no helpful information because” PCI “had no relationship with the sponsor.” Doc.165 at 15 n.7. Exactly. That’s the problem that the Florida Legislature recognized:

[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[.]

Fla. HB 1205 ll. 285-90. That’s the problem that the Office of Election Crimes and Security identified as well. Its 2024 report details that Floridians Protecting Freedom paid PCI millions of dollars for “petition gathering,” Doc.103-2 at 672-714, and PCI paid another entity to pay another entity to pay petition circulators, Doc.103-2 at 482 (“a company that was hired by Progressive Campaigns, Inc. (PCI) hired Five Star Petitioners to hire registered PPCs [paid petition circulators] to circulate petitions endorsing the ‘Amendment to Limit Government Interference with Abortion’”).

All this is to say that the daisy chain of out-of-state entities working with sponsors creates plausible deniability for the sponsor and a brick wall for the State when investigating issues with petition gathering. That’s a problem. The residency requirement targets the problem.

Plaintiffs nevertheless contend that the law is overly broad. Doc.173-1 at 27. For a law to be overly broad, its “overbreadth” must “be substantial, not only in an absolute sense, but also relative to the statute’s plainly legitimate sweep.” *United States v. Williams*, 553 U.S. 285, 292 (2008). The “ratio of unlawful-to-lawful applications” must be “lopsided.” *United States v. Hansen*, 599 U.S. 762, 784 (2023).

Here, the ratio is lopsided in favor of the State. It’s plainly legitimate for the State to prevent fraud generally. And the **Petition Circulator Eligibility** provisions allow all non-residents to speak, on any issue or topic. The collecting and delivering that Plaintiffs focus on is conduct, not speech.

Finally, Plaintiffs seem to argue that a residency requirement could only be warranted if “nonresident circulators engage in more fraud than resident circulators.” Doc.169-1 at 18; Doc.175-1 at 19. That’s not the standard. This isn’t a number-counting or comparison exercise. The fact remains that non-residents commit petition fraud, and the fact that they are *non-residents* hampers the State from enforcing its laws. The State need not wait idly by for non-resident fraud to surpass the fifty percent threshold. *Brnovich*, 594 U.S. at 677.

In sum, Plaintiffs’ First Amendment challenge fails.

B. The Volunteer Petition Circulator Eligibility Requirements Comply with the First Amendment. (Florida Decides

**Healthcare Plaintiffs, Florida Right to Clean Water Plaintiffs,
League of Women Voters Plaintiffs)**

Plaintiffs also challenge the **Petition Circulator Eligibility** requirements for volunteers. As a reminder, HB1205 allows volunteers to collect, deliver, and possess up to twenty-five signed petitions, not including signed petitions for immediate family members or their own signed forms. Anything greater than that amount requires the volunteer to register with the State. That, in turn, requires the volunteer to provide the State with his or her name, address, birthdate, driver license number or identification number, and social security number. Fla. Stat. § 100.371(4)(c). Like the non-resident restrictions, the volunteer requirements don't abridge speech; they simply limit the custody and delivery of signed petitions. To the extent a "who" is being regulated, like the non-resident restrictions, the restrictions survive constitutional scrutiny.

Much of the same compelling interests apply, *supra*, and tailoring is met for much of the same reasons, *supra*. More specifically, Plaintiffs' declarations make plain that volunteers, as a whole, are unpredictable, lack training, and lack oversight. It's worth reemphasizing that the State has had difficulty enforcing its laws against paid, registered circulators. That task is made much more difficult for volunteer, unregistered circulators. Not even petition sponsors know what their volunteers are doing.

Even so, the **Petition Circulator Eligibility** requirements for volunteers provide a tailored solution: volunteers can collect, deliver, and possess twenty-five signed petitions—not including petitions for immediate family members or their own

signed forms. Volunteers can pass out an unlimited number of blank petition forms to their family, friends, and neighbors. They also remain free to speak for or against any citizen initiative. That speech isn't affected by HB1205.

Plaintiffs, again, disagree. They call the requirements a “prior restraint.” *E.g.*, Doc.169-1 at 19; Doc.173-1 at 29. This isn't convincing. An injunction that prevents an individual from speaking is a prior restraint. *Near v. Minnesota*, 283 U.S. 697, 721 (1931). A public-activities ordinance that requires a permit and fee payment—the amount of which has no criteria and is up to the administrator—is a prior restraint. *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 130, 133 (1992).

The volunteer **Petition Circulator Eligibility** provisions aren't prior restraints. They don't stop anyone from speaking about any issue or petition. They merely require volunteer circulators to register with the State, for free, if they intend to take possession of over twenty-five signed petitions (excluding immediate family members and themselves). Registration currently takes around “one to two business day[s].” Doc.171-8 at 21. Plaintiffs provide no evidence to the contrary, or even that any registration has been denied. Doc.173-1 at 32.

Then Plaintiffs contend that there's a constitutional right to advocate anonymously. Doc.169-1 at 20 (citing *Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Village of Stratton*, 536 U.S. 150, 154 (2002) (concerning door-to-door soliciting)); Doc.173-1 at 31 n.6 (same); Doc.175-1 at 23 (same). That's true as far as it goes. But no one is stopping a volunteer from going door to door to advocate for an issue. The registration

requirement only kicks in when that volunteer starts collecting signed petitions over the twenty-five-petition safe harbor. The collection of these signed petitions creates fiduciary duties to Florida voters who are entrusting their petition to someone else. Fla. Stat. § 100.371(4)(f)(3), (7)(a). Yet Plaintiffs fail to cite a single case for the proposition that volunteer circulators can perform these fiduciary duties without oversight from petition sponsors or the State.

Buckley itself also undermines Plaintiffs' anonymity argument. There, the Supreme Court spoke favorably of Colorado's "requirement 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." 525 U.S. at 188-89 (cleaned up). The Supreme Court's discussion undermines any purported right to anonymously engage in petition circulation. Some Plaintiffs seem to acknowledge this: "Plaintiffs don't object to the requirement that a volunteer complete an affidavit on a petition identifying themselves as the person who circulated the petition." Doc.169-1 at 25.

Plaintiffs next argue that the provisions "deter additional people from volunteering—out of fear of giving the State their information or because additional barriers make people less likely to give their time to a cause." Doc.169-1 at 22; Doc.175-1 at 29. Plaintiffs' fears are misplaced. They fear providing government-issued information (driver license number, identification number, social security number) to the government. They worry about going through petition training, Doc.173-1 at 33,

even though volunteers don't appear to be trained or are minimally trained by petition sponsors, Doc.168-2 ¶ 7. If the petition sponsor training is any good, it should inform circulators of their duties under Florida law and the consequences of violating Florida law. It's unclear how the State training, and any adequate sponsor training, would be much different. Regardless, the State doesn't need "to ensure that the" petition circulation "process" is "the most efficient or affordable." *Biddulph*, 89 F.3d at 1498.

As another argument, Plaintiffs downplay the need of State oversight, because, according to Plaintiffs, volunteers aren't likely to commit fraud. Doc.169-1 at 24. Plaintiffs say that volunteer circulators would risk too much by committing fraud. Doc.169-1 at 24. But the same could be true about paid circulators. And, we're told, paid circulators have more to lose—their financial livelihood. Yet paid circulators commit fraud. Whether it's fraud committed by paid circulators or volunteer circulators, fraud is fraud. All fraud undermines the petition process and Florida's election administration. HB1205 works to address those problems.

Finally, Plaintiffs contend that the law is overly broad. *E.g.*, Doc.175-1 at 25. The same analysis that applies to the non-resident restrictions applies here. Here, the ratio is lopsided in favor of the State. It's plainly legitimate for the State to prevent fraud generally. And the **Petition Circulator Eligibility** provisions allow all volunteers to speak, on any issue or topic. The collecting and delivering that Plaintiffs focus on is conduct, not speech.

In sum, Plaintiffs' constitutional challenge fails.

C. The Non-Citizen Petition Circulator Eligibility Restrictions Comply with the First Amendment. (Florida Right to Clean Water Plaintiffs, League of Women Voters Plaintiffs)

Plaintiffs contend that the **Petition Circulator Eligibility** restrictions for non-citizens violate the First Amendment. They do not. The analysis here mirrors the analysis above. There's been election misconduct perpetrated by non-citizens. *Supra*. Enforcement of election laws is difficult here because non-citizens have ties to other countries and communities. *Supra*. The State has compelling governmental interests to stop fraud and investigate fraud (through the timely enforcement of its subpoenas and other investigative tools). HB1205's non-citizen provisions prevent such fraud from occurring and help the State better catch such fraud, while, at the same time, allowing non-citizens to speak freely on any political issue or initiative.

In response, Plaintiffs argue that just because some non-citizens commit fraud, that doesn't justify a restriction on all non-citizens. *E.g.*, Doc.173-1 at 21. Again, that's not the standard. This isn't a number-counting or comparison exercise. This kind of strict scrutiny and perfect tailoring isn't required under exacting scrutiny.

Plaintiffs then contend that the law is overly broad. *E.g.*, Doc.173-1 at 22. The same analysis that applies to the non-resident and volunteer provisions applies here. Here, the ratio is lopsided against Plaintiffs. It's plainly legitimate for the State to prevent fraud generally. And the **Petition Circulator Eligibility** provisions allow all non-citizens to speak, on any issue or topic. The collecting and delivering that Plaintiffs focus on is conduct, not speech. This constitutional challenge fails, too.

D. The Petition Circulator Affidavit Requirement Complies with the First Amendment. (Florida Right to Clean Water Plaintiffs, League of Women Voters Plaintiffs)

Plaintiffs contend that the **Petition Circulator Affidavit** provision violates the First Amendment. Recall that this provision requires petition circulators to sign and provide their name, address, and circulator number or barcode on petitions.

The main problem for Plaintiffs is that the Supreme Court in *Buckley* approved of Colorado's affidavit requirement. 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." 525 U.S. at 188-89 (cleaned up). 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 "has" "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 (cleaned up).

So too here. Plaintiffs mention everything in *Buckley* except the Court's approval of the similar affidavit requirement. Plaintiffs' invocations of privacy intrusion and

“anonymous” advocacy aren’t persuasive given the discussion in *Buckley*. *E.g.*, Doc.173-1 at 27; Doc.175-1 at 30.

At base, the affidavit requirement exists for good reason. Too many circulators have forged voters’ names and information and tampered with completed forms. The **Petition Circulator Affidavit** furthers the State interests in identifying potential bad actors and apprehending them.

E. The Volunteer Petition Circulator Eligibility Requirements Comply with Due Process. (Florida Right to Clean Water Plaintiffs, League of Women Voters Plaintiffs)

Plaintiffs contend that the **Petition Circulator Eligibility** volunteer requirements violate due process. This isn’t so. Again, the provisions require volunteer circulators, if they want to collect and deliver over twenty-five signed petitions for non-immediate family members, to register as a petition circulator with the State.

Even so, Plaintiffs contend that the provisions don’t have a reasonable and readily apparent construction. *E.g.*, Doc.173-1 at 36. But read in context, HB1205’s aims are clear. *Tracy v. Fla. Atl. Univ. Bd. of Trs.*, 980 F.3d 799, 807 (11th Cir. 2020).

Plaintiffs ask whether “the statute require[s] registration for collecting, delivering or otherwise physically possessing more than 25 petitions at one time,” a “year,” one “election cycle,” or “a lifetime.” Doc.173-1 at 36; Doc.175-1 at 27. The answer is one election cycle. Based on the context of the legislation and petition process scheme, HB1205 operates on general election cycles. *E.g.*, Fla. HB 1205 ll. 342-47, 731-38, 798-807, 880-84.

Similarly, Plaintiffs ask whether “the statute require[s] registration for collecting, delivering or physically possessing more than 25 petitions for the same initiative,” or “cumulatively for any initiative.” Doc.173-1 at 36; Doc.175-1 at 27. The answer is for the same initiative. Put another way, a volunteer circulator can collect twenty-five signed petitions for Sponsor A, twenty-five signed petitions for Sponsor B, and twenty-five signed petitions for Sponsor C, all without registering. That’s because HB1205’s language says as much. A volunteer can have up to “25 signed petition forms in addition to *his or her own signed petition form*” under the bill’s safe-harbor provision. Fla. HB 1205 ll. 587-89 (emphasis added). A volunteer can, of course, have a signed petition form for each approved initiative. It follows then that the twenty-five-form limit is tethered to each initiative. For each initiative, the volunteer’s own signed petition form is subtracted from the twenty-five-form limit.

Plaintiffs also contend that there’s an inconsistency in how HB1205 describes volunteer activities. Doc.173-1 at 36 n.7. No such inconsistency exists. A volunteer circulator (i.e., someone who isn’t a registered “petition circulator”) is “a person who *collects, delivers, or otherwise physically possesses* no more than 25 signed petition forms.” Fla. HB 1205 ll. 432-40 (emphasis added). Another provision states that it’s a third-degree felony to “*collect, deliver, or otherwise physically possess* more than 25 signed petition forms in addition to your own or those of immediate family member.” Fla. HB 1205 ll. 569-77 (emphasis added). The same is true two provisions later in HB1205, stating that “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.” Fla. HB 1205 ll. 584-97 (emphasis added). It’s true for the **Criminal** provisions as well: 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.” Fla. HB 1205 ll. 1335-41 (emphasis added).

Therefore, Plaintiffs’ challenge fails.

F. The Non-Citizen Petition Circulator Eligibility Restrictions Comply with the Equal Protection Clause. (Florida Right to Clean Water Plaintiffs, League of Women Voters Plaintiffs)

Plaintiffs contend that the **Petition Circulator Eligibility** restrictions for non-citizens violate the Equal Protection Clause. But the restrictions meet the “political function” exception. The 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). As the Supreme Court put it, 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.

Here, “[b]allot initiatives are the quintessential form of direct democracy.” *OPAWL v. Yost*, 118 F.4th 770, 777-78 (6th Cir. 2024). Plaintiffs agree: the “power to propose constitutional amendments” is reserved “to the people,” a “right” meant “as a check and balance against legislative and executive power by directly giving voters a narrow but direct voice in amending their fundamental organic law.” Doc.173-1 at 2

(cleaned up). Petition circulators are “nonelective” “positions” that “participate directly in the formulation, execution,” and “review” of “public policy.” *Sugarman v. Dougall*, 413 U.S. 634, 646 (1973). Thus, “excluding 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 (cleaned up); *see also Bluman v. FEC*, 800 F. Supp. 2d 281, 287 (D.D.C. 2011) (Kavanaugh, J.) (upholding restrictions on foreign nationals contributing to political campaigns).

Even so, Plaintiffs contend that the **Petition Circulator Eligibility** restrictions are underinclusive. They argue that the restrictions “bar[] noncitizens who are legal residents from circulating petitions, but Florida law does not prevent noncitizens from serving in other government roles, including those dealing with voting and elections.” Doc.173-1 at 24; Doc.175-1 at 20. This, however, isn’t a fair comparison. Government employees must undergo background checks. *E.g.*, Fla. Stat. § 448.09. Sponsors (and presumably their contractors or subcontractors or sub-subcontractors) don’t run background checks on their circulators. Doc.171-1 ¶ 48 (“RTCW does not have the resources or capacity to conduct citizenship verification checks and is concerned that despite its best efforts, RTCW will not be able to definitively ensure that non-U.S. citizens do not collect petitions for the campaign.”).

To put a finer point on it, Plaintiffs’ circulators can literally be anyone. Government employees can’t.

All told, this HB1205 provision complies with the U.S. Constitution.

G. The Moratorium Provision Otherwise Complies with the First Amendment. (Florida Decides Healthcare Plaintiffs)

Plaintiffs further contend that the **Moratorium** provision violates the First Amendment. The provision does no such thing. It purely regulates the petition process. It doesn't concern the "whos" or "hows" of petition circulation. It resembles more of the initiative scheme upheld in *Biddulph v. Mortham*, 89 F.3d at 1498, than the circulator requirements struck down in *Meyer v. Grant*, 486 U.S. at 420. Plus, the **Moratorium** provision doesn't prevent Plaintiffs from circulating petitions, speaking on issues, or delivering petitions. It touches no speech or protected constitutional interest.

It's also backed by good reasons. As discussed above, the legislature included the provision as a processing hold to give the State's supervisors time to implement the new bill. *Supra*. This hold serves the public good without interfering—at all—with Plaintiffs' efforts to gather and then submit petitions. *Supra*.

Still, Plaintiffs say that this facially neutral provision is a content-based speech restriction. Doc.169-1 at 26-27. In the alternative, they argue that it disparately impacts particular viewpoints. Doc.169-1 at 26-27. All this is so, Plaintiffs argue, because the provision applies only once, and even though there are twenty active petitions in circulation, there are "only three" that are "truly active" right now. Doc.169-1 at 26-27. Those three have to do with Medicaid expansion, marijuana, and water. Doc.169-1 at 10. Plaintiffs speculate that the Florida Legislature passed the **Moratorium** provision

to target the three initiatives (though it's unclear whether two of the three initiatives will get on the ballot regardless of any processing hold). Doc.169-1 at 26-27.

Plaintiffs make these sweeping claims on little more than conjecture and conspiracy. No legislative statements are introduced for this proposition, nor is any acknowledgement that any new petition, on any subject, could be introduced and subject to the **Moratorium** provision as well. Plus, if there was a desire to harm the “truly active” petitions, the **Moratorium** provision does an extremely poor job: it's only in effect for three months, and it doesn't stop petition sponsors from collecting and delivering petitions.

* * *

Before discussing the remaining preliminary injunction factors, three points:

First, to the extent that Plaintiffs are asserting standalone free association claims, those claims don't add much to the mix. Plaintiffs simply don't have a constitutional right to associate with whomever they want. *See Roberts v. U.S. Jaycees*, 468 U.S. 609, 623 (1984). *See also Citizens for Police Accountability Political 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.”).

Second, Plaintiffs can't stack purported constitutional harms on top of one another. *E.g., Eu*, 489 U.S. at 222-33 (analyzing different challenges separately by

weighing each distinct set of burdens against a corresponding distinct set of state interests proffered); *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 716 F. Supp. 3d 1236, 1242, 1244 (N.D. Fla. 2024) (same).

Third, to the extent that Plaintiffs challenge the HB1205 provision that invalidates a signed petition “submitted by an ineligible or unregistered petition circulator,” Fla. HB 1205 ll. 967-70, a similar provision was upheld in *Buckley* as part of Colorado’s “arsenal of safeguards.” 525 U.S. at 205 (“initiative-petition section deemed void if circulator has violated any provision of the laws governing circulation”).

Now, the remaining preliminary injunction elements.

III. The Remaining Elements Favor the State

The other preliminary injunction elements favor the State. Plaintiffs won’t suffer irreparable harm if their motion is denied. As explained above, their harms are largely speculative, and the HB1205 provisions don’t touch their free-speech rights. Even if Plaintiffs satisfy this element, it’s not dispositive: none of the four elements are controlling. *Fla. Med. Ass’n, Inc. v. U.S. Dep’t of Health, Educ., & Welfare*, 601 F.2d 199, 203 n.2 (5th Cir. 1979).

The balance of harms, and the public interest, greatly favor the State. If the HB1205 provisions are enjoined, the State will suffer irreparable harm—“the inability to enforce its duly enacted plans clearly inflicts irreparable harm on the State.” *Abbott v. Perez*, 585 U.S. 579, 602 n.17 (2018).

The public interest suffers as well. The State won't be able to effectively stop petition fraud, forgery, and bad acting—problems that exist in Florida. Doc.103-2, Doc.103-3, Doc.103-4. This will erode voter confidence in the initiative petition process and election administration. *Purcell*, 549 U.S. at 4 (“Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government.”).

All four preliminary injunction elements, therefore, aren't met in this case.

CONCLUSION

This Court should deny Plaintiffs' motions for preliminary injunctions.

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Dated: June 20, 2025

Respectfully submitted,

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LOCAL RULE 7.1(F) CERTIFICATION

Pursuant to Local Rule 7.1(F), this response contains 7,765 words, excluding the case style, signature block, and any certificate of service or certification.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

CERTIFICATE OF SERVICE

I certify that on June 20, 2025, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

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