UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

COUNT US IN, WOMEN4CHANGE INDIANA, and JOSH MONTAGNE,	)	
Plaintiffs,	)	
v.	)	**Case No. 1:25-CV-00864-RLY-MKK**
DIEGO MORALES, in his official capacity as Indiana Secretary of State, et al.,	)	
Defendants.	)	

Reply in Support of Motion to Dismiss

This case should be dismissed. The State of Indiana enacted SB 10 well within its authority to set voting requirements under the Constitution. That's true under *Anderson-Burdick* analysis or rational basis, and likewise under Twenty-Sixth Amendment precedent. Without the use of a student ID, students at public colleges and universities are in the same situation as all other Hoosiers, and *Crawford v. Marion County Election Board* settled that requiring an individual to get a free identification care from the BMV, and any inconvenience that entails, does not qualify as a substantial burden on the right to vote. 553 U.S. 181, 198 (2008).

There is no constitutional right to use a student ID to vote. While plaintiffs never directly claim there is, all of their arguments rest on this false assumption. It's not entirely clear what the plaintiffs are really saying is SB 10's problem. Beyond the bald assertion that SB 10 violates the U.S. Constitution, the "why" behind the assertion is hard to pin down. Plaintiffs spend pages upon pages going on about the

supposed burdens facing college students if they're forced to get a driver's license or some other form of identification. But they never address the fact that millions of Hoosiers must do exactly that if they're not attending college, and there is absolutely no constitutional barrier to that obligation after *Crawford*.

And Plaintiff's lumping of all college students (and indeed all young people) together is equally confusing. There are a host of students attending private colleges and universities who must face the allegedly insurmountable problems facing public university students. Plaintiffs mention not a word about this in their response, so it remains unknown what it is that they think distinguishes public school students (there is, of course, no distinguishing feature, legally speaking). Plaintiffs here and there suggest that the problem is that Indiana used to allow students IDs, but no longer. This position equally lacks any legal support. First, there is no authority that suggests that once a state permits a certain kind of identification, it must allow that identification forever. Second, if the position is that the students somehow relied on this particular form of identification, there is no group for which this position is less apt than students who are necessarily limited to this form of identification for only a few years at most.

The upshot is that, beyond a proclamation that SB 10 is unconstitutional, the plaintiffs' complaint fails to state a claim for which relief may be granted and the case should be dismissed.

I. SB 10 does not impose an unconstitutional burden on anyone's right to vote.

At base, plaintiffs are asking this Court to give special status to students at one of Indiana's public colleges or universities. The State is not burdening the right to vote by refusing to give special treatment to those students. Accordingly, the plaintiffs' challenges under the First and Fourteenth amendments should be dismissed.

As noted in the motion to dismiss, the plaintiffs must show that the state action impinges upon the exercise of a fundamental right without a compelling government interest, the state action discriminates on the basis of a suspect classification without being narrowly tailored to serve a compelling government interest, or the state action discriminates against a non-protected class without any conceivable rational basis. *Nashville Student Org. Comm. V. Hargett*, 155 F. Supp. 3d 749, 753–54 (M.D. Tenn. 2015)(citing *Romer v. Evans*, 517 U.S. 620, 631, 116 S.Ct. 1620, 134 L.Ed.2d 855 (1996); *Plyler v. Doe*, 457 U.S. 202, 216–17, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982); *San Antonio Indep. Sch. Dist. V. Rodriguez*, 411 U.S. 1, 17, 93 S.Ct. 1278, 36 L.Ed.2d 16 (1973)).

Whether the Court uses *Anderson-Burdick* analysis or a rational basis, the case should be dismissed.

A. Valid Exercise of State Authority under the *Anderson-Burdick* test.

Plaintiffs put all their chips on *Anderson-Burdick*, so we can start there. And using the *Anderson-Burdick* balancing analysis still should result in dismissal.

Dismissal is appropriate here because requiring Plaintiffs to use any other permitted form of ID and not a student ID does not burden their right to vote. First, Plaintiffs claim that questions under *Anderson-Burdick* should not be resolved at the dismissal stage. Dkt. 42 at 7. But here, where the United States Supreme Court has found Indiana's scheme to be constitutional and SB 10 removes only a single form of ID and leaves in place other options that plainly meet constitutional muster, any burden argued by Plaintiffs is below what has already been found to be constitutional.

Despite the plaintiffs' legal assertions about the supposed burden on their right to vote, there is no lawful basis for categorizing public school students' need to get, say, a driver's license as severe, so under the *Anderson-Burdick* analysis, the Court need only review this matter for a rational basis for SB 10. *Burdick v. Takushi*, 504 U.S. 428 (1992); see also *Anderson v. Celebrezze*, 460 U.S. 780, 780 (1983). Under the *Anderson-Burdick* standard, a court "must weigh the character and magnitude of the asserted injury to the First and Fourteenth Amendment rights. . . against the precise interests put forward by the State as justification for the burden imposed by its rule[.]" *Burdick*, 504 U.S. 428; *see also Anderson*, 460 U.S. at 780. During its review, the court should "tak[e] into consideration the extent to which [the state's] interests make it necessary to burden the plaintiff's rights." *Burdick*, 112 S. Ct. at 2060; see also *Anderson*, 460 U.S. at780. A "regulation must be narrowly drawn to advance a state interest of compelling importance only when it subjects the voters' rights to 'severe' restrictions." *Burdick*, 112 S. Ct. at 2061. While legislative schemes regulating elections "inevitably affect[] . . . the individual's right to vote and his right to associate

with others for political ends, the state's important regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions." *Anderson*, 460 U.S. at 788. This flexible framework "depends upon the extent to which a challenged restriction burdens First and Fourteenth Amendment rights." *Burdick*, 112 S. Ct. at 2063.

And "[u]nless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, [the Court's] decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest." *City of New Orleans v. Duke*, 427 U.S. 297, 303 (1976).

Plaintiffs recite all the supposed burdens facing public college and university students. But these supposed burdens are in no way problematic because they're exactly what millions of other Hoosiers must do to identify themselves to vote and it is what the Supreme Court found perfectly acceptable in *Crawford*. There's nothing about the students' age or their situation as a college student itself that makes these obligations somehow "severe"—all the other students at private schools or those who are not in college need to do the same thing. If the plaintiffs are arguing that students have come to rely on using this particular form of identification over the years, taking a moment to think about the relatively short time that students remain in college cuts against any such reliance argument. And, finally, if it's a problem of timing, the plaintiffs never argue that the effective date for the new law should be paused so students can get the required forms of identification; nor could they, given that there

is no assertion that any student plans to vote in the months following SB 10's effective date. There is nothing unique that makes public college or university students unable to do what Hoosiers do all the time: get a driver's license or state ID. This, as a matter of law, is not a severe burden.

Given that the burdens here are not severe, review takes the rational-basis approach. See *City of New Orleans*, 427 U.S. at 303 ("[u]nless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest.").

And there are clear rational bases for SB 10, most notably, the problem of fraud and the variety of student ID cards. Plaintiffs continue to ask the Court to disregard concerns about fraud, although the Supreme Court has noted that this is valid concern, and in the context of identification itself. *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008).

Plaintiffs go so far as to suggest that the State must show evidence of fraud to use it as support for prevent fraud. That is not the law and cannot be the law. A state and its citizens do not need to first be defrauded to put measures in place to prevent that fraud. *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 686 (2021).

Next there is the concern about the variety of student ID cards. In an implicit acknowledgment that this is an especially problematic rationale for SB 10 for the plaintiffs, they fail to address this in their response, although the plaintiffs noted this

variety in their complaint. Dkt. 1 at 24. With each public college or university being able to choose whatever form it wants their identification cards to take, with as many or as little security or validation measures in place, it is a reasonable step to restrict the use of such inherently uncertain identification. Nowhere do the plaintiffs address these concerns or explain why colleges or universities would be in the election identification process in the first place.

The General Assembly does not need to accommodate and try to guess what the colleges or universities might do next (go digital, for example), but the State may do what it did here: make the requirement consistent for the other colleges and universities in the state. If the plaintiffs are demanding that the Court make the law be that college and universities look a certain way, that is scrutiny and management of Indiana law that has no support in contemporary election law.

B. There is a rational basis for SB 10.

If the Court can hold that SB 10 passes muster under *Anderson-Burdick*, SB 10 passes muster under the even more relaxed standard of rational basis review.

There, "a law must bear some rational relationship to a legitimate state end, and this poses a low hurdle because rational-basis review is not a license for courts to judge the wisdom, fairness, or logic of legislative choices." *Tully v. Okeson*, 977 F.3d 608, 616 (7th Cir. 2020) (cleaned up) (quoting *Johnson v. Daley*, 339 F.3d 582, 587 (7th Cir. 2003)). As noted above, the concerns over fraud and the variety of cards are just two reasons why SB 10 is on firm ground when addressing those concerns. The Court does not need to go further in its analysis. SB 10 is constitutional.

II. SB 10 does not violate the Twenty-Sixth Amendment.

Plaintiffs assert in their complaint that SB 10 is an intentional discrimination against "young voters on account of age." Dkt. 1 at 28, Dkt 42 at 31. But the plaintiffs also assert that SB 10 "singles out young student voters for exclusion." Dkt. 42 at 30. But the plaintiffs never say for whom they are really asking this Court to grant special treatment: Indiana public college and university students. Because if the plaintiffs acknowledged this, it would be far too clear that there is no legal support for their claim.

It is important to reiterate the approach the Court should take to SB 10 in general. The Supreme Court has directed district courts to presume legislative good faith and to "draw the inference that cuts in the legislature's favor when confronted with evidence that could plausibly support multiple conclusions." *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 10 (2024) (citing, *Abbott v. Perez*, 585 U.S. 579, 610–612 (2018)).

Further, the whole idea that students are being excluded misapprehends the situation. Students have never been part of a larger group and then singled out for exclusion. Quite the opposite, all other Hoosier were previously excluded from the ability to use student IDs except students at public colleges and universities. Under SB 10, those students at public institutions no longer have that special treatment and are situated like all other Hoosiers. SB 10 does not exclude any group of voters; elimination of the student ID applies to everyone.

Plaintiffs have repeatedly asserted that SB 10 is some kind of "surgical attack on young voters." Dkt. 1 at 2, 11. If so, the only way to characterize it would be as malpractice. In short, "young voters" do not equal those students who, Plaintiffs argue, should be able to use their student IDs despite other students at other schools not being able to use theirs. Plaintiffs in their response to the motion to dismiss bring back the surgery metaphor, but this time asserting the "surgical exclusion of student IDs." Dkt. 42 at 7. This is closer to reality—SB 10 is a precise and accurate recalibration of the identification requirements the Supreme Court upheld in *Crawford*.

As noted by amici, the number of students affected by SB 10 aged 18-24 is relatively small compared to actual young voters, that is, those aged 18-24 who either attend a private college or university or do not attend a college or university. Dkt. 41 at 21. So rather than an "attack" on "young voters" or even on "young students," SB 10 is merely a law applying neutral requirements on everyone that age. And those requirements have already been approved by the Supreme Court. Thus, the even-handed law applies to a group that is not suspect in any way, and it is applied for a legitimate purpose. In short, SB 10 imposes no "material requirements" on young people's right to vote, but applies the same requirements to all young people, not giving special status to a certain subset of public university or college students. *Tully v. Okeson*, 78 F4th 377, 385-86 (7th Cir. 2023).

Courts around the country have already rejected arguments the plaintiffs advance here. In Idaho, the district court looked to *Tully II* and held that the Idaho law likewise does not violate the Twenty-Sixth Amendment because it "imposes no

'material requirement' on younger voters solely on account of age," *Mar. for Our Lives Idaho v. McGrane*, 749 F. Supp. 3d 1128, 1141 (D. Idaho 2024), although the plaintiffs try to downplay this by noting that the case is on appeal. Dkt. 42 at 30. Similarly, Plaintiffs try to distinguish *Nashville Student Org. Comm. V. Hargett*, 155 F. Supp. 3d 749 (M.D. Tenn. 2015). While the court there dismissed the plaintiffs' Twenty-Sixth Amendment claim, the plaintiffs here argue this Court should ignore that case because Tennessee never permitted the use of student IDs. Dkt. 42 at 30. But as noted above, this makes little sense for the students in particular—they are necessarily limited in their ability to use student IDs at all, so the idea that they have somehow "relied" on this over the years has no basis in law or fact.[1]

Plaintiffs seem to be suggesting that the State may never change its identification requirements. If the plaintiffs are trying to shoehorn a kind of retrogression argument from the Voting Rights Act into their Twenty-Sixth Amendment claim, the Seventh Circuit already rejected that approach. In *Tully II*, the Seventh Circuit rejected an overlap of retrogression and abridgement, instead elaborating on the question of whether the statute imposed a "material requirement." Indeed, in *Tully II,* voters under the age of 65 had earlier been able to vote by absentee ballot in the primary election, but not for the general election, although that question was not directly in front of the court. *Tully v. Okeson*, 78 F.4th 377, 379 (7th Cir. 2023).

[1] Plaintiffs point to a Fifth Circuit case for the proposition that making it harder for someone to vote abridges the right to vote under the Twenty-Sixth Amendment. Dkt. 42 at 30. That case, *Tex. Democratic Party v. Abbott*, 978 F.3d 168, does not help the plaintiffs. In that case, the Fifth Circuit *rejected* the plaintiffs' arguments, noting that a Twenty-Sixth Amendment violation occurs *only* when it makes it harder for a person to vote. *Id.* at 191. And, most important, the plaintiffs were there arguing that it was about a certain age group that supposedly made it more difficult. Here, there is no age group at all—it is only a certain segment that the plaintiffs insist should get special treatment.

Further, an Idaho district court looked to *Tully II* when analyzing the question of whether restricting the formerly allowed student ID cards and concluding that such a restriction does not violate the constitution because the elimination of the student identification cards applies to everyone. *Mar. for Our Lives Idaho v. McGrane*, 749 F. Supp. 3d 1128, 1141 (D. Idaho 2024).

The Court should do what other courts have already done: uphold the neutral law that applies across the board to all voters.

* * *

For these reasons, the State Defendants[2] ask this Court to dismiss the plaintiffs' case and grant all other appropriate relief.

Respectfully submitted,

THEODORE E. ROKITA
INDIANA ATTORNEY GENERAL
Attorney No. 18857-49

Date: August 11, 2025 By: */s/ Jefferson S. Garn*
Jefferson S. Garn
Deputy Attorney General
Attorney No. 29921-49
OFFICE OF ATTORNEY GENERAL TODD ROKITA
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Phone: (317) 232-5933
Fax: (317) 232-7979
Email: Jefferson.Garn@atg.in.gov

[2] The State Defendants are sued in their official capacity only. Accordingly, the real party in interest is the State of Indiana.