

No. 25-1017

IN THE
Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,

Petitioner,

v.

MI FAMILIA VOTA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

**BRIEF FOR *AMICI CURIAE* CURRENT
AND FORMER ELECTION OFFICIALS
IN SUPPORT OF RESPONDENTS**

NORMAN L. EISEN
TIANNA MAYS
POOJA CHAUDHURI
JACKI ANDERSON
DEMOCRACY DEFENDERS FUND
600 Pennsylvania Avenue SE,
#15180
Washington, DC 20003

CHRISTINE BASS
QUEMARS AHMED
PUBLIC RIGHTS PROJECT
490 43rd Street, #115
Oakland, CA 94609

JUSTIN LEVITT
**Counsel of Record*
LOYOLA LAW SCHOOL+
919 Albany Street
Los Angeles, CA 90015
(213) 736-7417
justin.levitt@lls.edu

SAMBO (Bo) DUL
COPPERSMITH BROCKELMAN PLC
2800 North Central Avenue,
#1900,
Phoenix, AZ 85004

+ Institutional affiliation for
purpose of identification only

Counsel for Amicus Curiae

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INTERESTS OF AMICI CURIAE¹

Amici are current and former local officials with the front-line responsibility for administering elections. Some *amici* were elected to office as Republicans, some were elected as Democrats, and some were elected in nonpartisan races; other *amici* were appointed or selected by Republicans, Democrats, or bodies with membership from both parties. Some served in a statewide capacity in addition to their time in local office. Collectively, *amici* have 262 years of experience administering elections, in addition to many decades of expertise advising and consulting on election matters. They also have many decades of service in leadership positions of local, state, and national election-related commissions, boards, and professional associations—including the U.S. Department of Homeland Security’s Election Security Task Force; the U.S. Election Assistance Commission’s Board of Advisors, Voting Systems Standards Board, and Technical Guidelines Development Committee; the National Association of County Recorders, Election Officials and Clerks; the National Association of Counties; the Partnership for Large Election Jurisdictions; the National Association of Secretaries of State; the Republican Association of Secretaries of State; and the Committee for Safe and Secure Elections. *Amici* have implemented state and federal election laws in 32 local jurisdictions that today represent nearly 17 million voting-age citizens spread across 14 different states, including some of the

1. No counsel for a party authored this Brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation of or submission of this Brief. No one other than the *amici curiae* or their counsel made a monetary contribution to the preparation or submission of this Brief.

most populous counties in the country and some that are significantly smaller. Some *amici* have been supervising elections since well before the National Voter Registration Act of 1993, 52 U.S.C. §§ 20501–20511 (“NVRA”), was passed and have remained engaged with the election process throughout the entire lifespan of the NVRA.

As current and former election officials closest to the voting public, *amici* have special insight into the issues raised by this case. *Amici* have a strong interest in preserving and defending the integrity of the electoral process that lies at the core of our democratic system of government, including the maintenance of voter registries that accurately include Americans who are eligible to vote and that accurately exclude those who are not.

Amici take no position herein on the advisability or legality of the particular Arizona list maintenance program or the documentary proof of citizenship requirement that generated the instant dispute. Rather, *amici* provide insight on two points.

First, the plain text of the NVRA prohibits *any* program the purpose of which is to systematically remove ineligible voters during the 90 days before Election Day. Contrary to the position of Petitioners and Respondents supporting Petitioners (collectively “Petitioners”), the 90-day moratorium contains no exception for removals based on alleged noncitizenship. *Amici*’s decades of firsthand experience show why adhering to Congress’s plain text ensures the effective election administration that American citizens deserve.

Second, *amici* refute the argument that state voter registration forms serve no legitimate purpose if those forms do not require information beyond the federal form. In *amici*'s experience, allowing states flexibility to design their own forms promotes effective election administration, even when federal and state registration forms require the same mandatory information.

INTRODUCTION AND SUMMARY OF ARGUMENT

Petitioners urge this Court to interpret a provision of the National Voter Registration Act in a manner at war with its plain text, undermining its primary purpose.

Section 8(c)(2)(A) of the NVRA reads: "A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. § 20507(c)(2)(A).

Petitioners and their supporting *amici* ask the Court to rewrite that text to create an exception for programs targeting persons allegedly ineligible because they are believed to be noncitizens. There are two problems with this interpretation.

First, it ignores the NVRA's plain text, which requires the completion of "any program" aiming to "systematically" remove the records of ineligible voters no later than 90 days before the election. The text means what it says. State and local officials must complete, not later than 90 days before a federal election, *any* program

designed to systematically remove ineligible voters from the list. There is no exception for systematic removal programs based on alleged noncitizenship.

Second, Petitioners' reading disregards the rationale for the categorical text. Congress enacted a "pencils down" period before Election Day to balance two related interests: ensuring clean and accurate voter rolls and protecting the due process rights of eligible voters. *Amici*—current and former election officials responsible for, *inter alia*, implementing the NVRA—have for decades understood that the plain text, as written, enhances effective election administration by preserving both values.

Applying the plain text of the 90-day Provision does not prevent election officials from responsibly maintaining accurate voter rolls. Under the NVRA, officials may on the eve of an election correct errors in individual registration records, respond to individual voters' requests for removal, and remove an individual from the registration rolls when their eligibility changes within the 90-day period, or when a one-off challenge identifies a particular record based on individualized information in a tailored process designed for heightened accuracy. Officials also can, and do, screen incoming registration applications during this period, under regular procedures. And officials may conduct large-scale, systematic removal programs at any point in the election cycle other than the eve of the election.

As for the interest in protecting voters' due process rights, in *amici's* experience, a large-scale removal of voters so close to an election invites unintentional disenfranchisement. Even when conducted with

impeccable care, systematic attempts to remove voters from the voter rolls—usually executed through attempts to match computerized voter records to other computerized data sources—are subject to error. The source records may inaccurately identify eligible voters as deceased, noncitizens, disenfranchised by convictions or incarceration, or no longer residing in the jurisdiction. And even when the underlying source records are accurate, the matching process might mistakenly link an eligible voter on the rolls to an ineligible person in the source data. Despite election administrators' best efforts, even the most precise systematic list maintenance program can unintentionally remove the names of some eligible voters. And in many states, those erroneously removed voters could not vote a valid ballot unless they discovered the error and secured a correction by the applicable registration deadline.

Congress's decision to balance these two interests through a categorical 90-day moratorium on programs of systematic purges promotes effective election administration. It removes the greatest risk to eligible voters when errors are least likely to be corrected in advance of the election and preserves the precision of list maintenance when that precision is most critical. When voters are wrongfully removed from the rolls at the eleventh hour, *amici* receive the brunt of voters' justified frustration and feel the durable impact on the perceived legitimacy of the electoral process. Last-minute removals also increase reliance on provisional ballots and the post-election process, which disrupts officials' ability to efficiently conduct elections. The NVRA's 90-day period thus reflects Congress's considered judgment that programs of systematic removal must conclude in time for eligible voters to address errors in that process, as a

safeguard for the orderly administration of elections. The construction offered by Petitioners is neither appropriate given the statutory text, nor necessary to give the legislation full and meaningful effect.

Amici also respond to another argument offered by Petitioners and their supporting *amici*, which similarly misapprehends a basic tenet of effective election administration practice. Petitioners urge this Court to interpret the NVRA to permit states to demand mandatory information beyond the information on the federal voter registration form, such as documentary proof of citizenship. In so doing, they claim that Congress's express authorization of the use of state-specific voter registration forms would serve no meaningful purpose unless those forms could require additional information.

Amici take no position on whether the NVRA permits states to require information of applicants using state voter registration forms beyond what is required for the federal form. But Petitioners' rationale for their reading is simply incorrect. *Amici*'s decades of experience using both state and federal voter registration forms highlight that state forms have substantial value in election administration even when they collect the same mandatory information as the federal form.

The federal form was designed by one federal agency as a compromise considering the needs of many different jurisdictions. It is not ideally tailored to *any* one particular state's needs because it must be suited to *all* of them; it is slow to change; and it is 27 pages long, including a cover page and 22 pages of instructions.

State forms, by contrast, are tailored to local needs even when they impose no additional mandatory requirements. Among other functions, they may contain features that enhance security, seek to identify applicants who desire assistance or have special needs, streamline processing, provide state specific guidance to applicants, collect optional contact information for list maintenance and voter outreach, recruit election workers, and tailor form layout to better serve constituents. These practical benefits mean that Congress's authorization of state forms facilitates efficient election administration, even when the forms demand no additional information.

Accordingly, the Court should decline to judicially append a new noncitizen exemption to the NVRA's categorical 90-day moratorium on programs of systematic removal and reject Petitioners' premise that state registration forms serve no meaningful purpose unless they require additional information.

ARGUMENT

I. THE NINTH CIRCUIT'S READING OF THE NVRA FOLLOWS THE CLEAR STATUTORY TEXT AS *AMICI* HAVE ALWAYS UNDERSTOOD IT, WHILE ALTERNATIVES REQUIRE REWRITING THE TEXT.

A. The plain text of the 90-day Provision supports the uniform interpretation of the appellate courts.

The NVRA's "90-day Provision," § 8(c)(2)(A) of the statute, states in its entirety:

A state shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

52 U.S.C. § 20507(c)(2)(A).

What that means is just what it says. Section 8(c) prohibits *any* program to systematically remove names from the list in the days before a primary or general election. That includes programs that systematically remove individuals purported to be noncitizens.

In the opinion below, the Ninth Circuit correctly understood the assignment: construe the statutory text by giving the words their “ordinary, contemporary, common meaning.” *Perrin v. United States*, 444 U.S. 37, 42 (1979); *see also TVA v. Hill*, 437 U.S. 153, 173 (1978). It concluded that “[a]ny program” aimed at systematic removal of ineligible voters means “any program” aimed at systematic removal of ineligible voters, without limitation. *Mi Familia Vota v. Fontes*, 129 F. 4th 691, 715–16 (9th Cir. 2025). This case involves records belonging to alleged noncitizens, who are ineligible to vote under Arizona law, Ariz. Const. art. 7, § 2(A), and are therefore ineligible voters. A program to systematically remove the names of noncitizens from the rolls is a program to systematically remove the names of ineligible voters from the rolls. Under the statute, *any* such program must be completed not later than 90 days before a primary or general election for federal office. The common meaning of the plain text is straightforward.

The Ninth Circuit’s reading is consistent with the decisions of other courts of appeals. Years earlier, the Eleventh Circuit followed the same common-sense reading of the plain text. Because Florida made citizenship a requirement of voter eligibility, the Eleventh Circuit understood that noncitizens would be “ineligible voters.” *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014). A program to remove ineligible voters without individualized information or investigation was a program of “systematic” removal. *Id.* And the plain text of the statute meant that “any” such program must be completed 90 days before a primary or general Federal election. *Id.*

The Fourth Circuit resolved the statutory interpretation in the same way, albeit in the context of an application for a stay rather than a decision on the merits. *Virginia Coal. for Immigrant Rights v. Beals*, No. 24–2071, 2024 WL 4601052, at *1–2 (4th Cir. Oct. 27, 2024), *stayed without explanation*, 2024 WL 4608863 (U.S. Oct. 30, 2024). That court objected to the attempt to exclude noncitizens from the plain sweep of the 90-day Provision by noting that the “argument violates basic principles of statutory construction by focusing on a differently worded statutory provision that is not at issue here and proposing a strained reading of the Quiet Period Provision to avoid rendering that other provision absurd or unconstitutional. That is not how courts interpret statutes.” *Id.* at *1.

The ordinary meaning of the plain text, read in the same manner by every appellate court to consider the question—and by the U.S. Department of Justice, right up until the most recent change of Administration, *see* Resp. in Opp. to App. for Stay 1–2, 6, 20–28, *Beals v. Va. Coal. for Immigrant Rights*, No. 24A407 (U.S. Oct. 29,

2024)—should be the only reason necessary to affirm the court of appeals’ reading of the statute here.

Yet there is further Congressional evidence that the 90-day Provision applies precisely as its plain text indicates. For example, in the conference report describing the effort to reconcile House and Senate versions of the NVRA, Congress addressed a House bill with a 90-day Provision identical in all respects to the provision finally enacted. H.R. 2, § 8(c)(2), 103d Cong., 1st Sess. (1993). The conferees stated, without qualification, that the provision “does not permit a State to conduct a systematic procedure to confirm voting lists within 90 days before a Federal election.” H.R. Rep. No. 103–66, 139 Cong. Rec. H2078–02 at H2083, 1993 WL 133442 (1993) (Conf. Rep.). The conference committee—and, later, the Congress—adopted this provision as is.² *Id.*

That blanket prohibition in Section 8(c)(2)(A) is readily reconciled with the rule of construction—not a substantive limitation of its own—that follows in Section 8(c)(2)(B). 52 U.S.C. § 20507(c)(2)(B) (“Subparagraph (A) shall not be *construed* to preclude” certain action”) (emphasis added). Section 8(c)(2)(A) prohibits all programs from systematically removing names from the official rolls within the 90 days before an election, whatever the basis for the program of systematic removal. Section 8(c)(2)(B) reminds officials that the time-limited moratorium on systematic removal programs does not preclude their ability to correct individual records based on individualized

2. The conference adopted two unrelated changes to other provisions in the Section, pertaining to the locations at which voters might vote after moving, and not relevant to this case.

information, including the specific examples enumerated in the Subparagraph.

Some of the specific examples in Subparagraph B involve correspondence with individual voters: for example, removal “at the request of a registrant.” *Id.* § 20507(a)(3)(A) (incorporated by reference in § 20507(c)(2)(B)(i)). Some imply individualized recognition of individualized mistakes: for example, “correction of registration records.” *Id.* § 20507(c)(2)(B)(ii). And some imply recognition that individual circumstances may change, rendering particular individuals newly ineligible within the 90-day window, and available for individualized removal from the rolls: for example, by reason of “criminal conviction” or “death.” *Id.* § 20507(a)(3)(B), (a)(4)(A) (both incorporated by reference in § 20507(c)(2)(B)(ii)). State provisions for one individual to challenge the registration status of another individual at the polls based on reliable, individualized information about their ineligibility would similarly fall outside of the moratorium on programs to systematically remove names from the official lists of eligible voters.

That is, Congress made clear that the moratorium on systematic mass removals should not be *construed* to prohibit adjustment of individualized records on the list based on individualized information. Subparagraph (A) focuses on the systematic—and, as described below, potentially error-laden—nature of a last-minute program of list maintenance at scale; Subparagraph (B) cautions that the prohibition on systematic removals on the eve of an election need not preclude individualized—and, as described below, more reliable—correction of individual records. Both coexist, without artificial abridgment.

B. Petitioners’ and other amici’s interpretations of the NVRA would require rewriting the statute.

Various parties and *amici* reach beyond the 90-day Provision, bringing in distinct Subsections of the NVRA to offer alternative and misguided readings of the text at issue here. But juxtaposing those constructions with the plain text of the 90-day Provision exposes the same logical flaw: it is implausible that Congress intended to write the statute that these alternative constructions propose using the words Congress actually used. Each, instead, amounts to a rewriting of the statute.

Several parties or *amici* urge a distinction between “ineligible persons” and “ineligible voters.” *See, e.g.*, Br. for Petitioner 41–46, 50; Br. for U.S. as Respondent 32–35, 37–39; Br. for the U.S. House of Representatives 22–29; Br. for Ctr. for Election Confidence et al. 18–26. These convoluted arguments admit that Congress intended the 90-day Provision to preclude, in the period before an election, some systematic removals of voters thought to be ineligible. But—pointing to portions of the statute other than the provision at issue here—they claim Congress intended the 90-day Provision to *authorize* a program to systematically remove droves of records the day before the election if those records belong to people thought to have never been eligible. That is an awkward construction of statutory text which prohibits “any program” to “systematically remove” names of “ineligible voters,” without exception. 52 U.S.C. § 20507(c)(2)(A). It puts immense weight on a construction of the word “voters” that is never expressly defined by the statute as Petitioners urge, and which is, in context, at war with the ordinary interpretation of the full sentence of Section 8(c)(2)(A).

Some of these same parties or *amici* further seem to urge that the 90-day Provision precludes only systematic removal due to change of residence. *See, e.g.*, Br. for Petitioner 48; Br. for U.S. as Respondent 36, 39–40. They seem to arrive at the conclusion by simple subtraction: Section 8(a)(3) appears to allow the removal of a registrant based only on request, conviction, death, or changed residence;³ Section 8(c)(2)(A) prohibits programs for systematically removing any ineligible voters within 90 days of an election; Section 8(c)(2)(B) says that the 90-day limitation should not be construed to preclude removal based on request, conviction, or death. And so, the superficial logic goes, the 90-day limitation must apply only to change of residence. Yet this imputes an implausibly convoluted drafting process to Congress: Congress ostensibly wanted to prohibit systematic purges

3. Several parties or *amici* have raised the notion that 8(a)(3), limiting the removal of “registrants,” might be read to preclude election officials’ efforts to remove individuals who should never have been placed on the rolls in the first instance—including the names of minors, noncitizens, and fictitious entries. This issue is not before this Court, and the Court need not reach it to conclude that 8(c)(2)(A) means what it says.

As election officials, *amici* have understood that 8(a)(3) of the NVRA does not preclude their ability to remove individuals from the rolls who were never eligible to vote. If this Court wished to offer a construction of “registrant” in 8(a)(3) consistent with that understanding, such a construction would not be unwelcome. That issue, though, seems irrelevant to construing the 90-day Provision in 8(c)(2)(A). The 90-day Provision prohibits any program designed to systematically remove the names of “ineligible voters,” a category both distinct from and broader than those ineligible “registrants” who may be subject to removal under 8(a)(3). And *amici* have always understood their authority to remove individuals from the rolls who were never eligible to be cabined by the prohibition on any program of systematic removal within 90 days of a federal election.

based on change of residence, and it did so by issuing a blanket prohibition (8(c)(2)(A)), followed by a rule of construction containing substantive exceptions in a cross-reference swallowing the vast majority of the blanket prohibition (8(c)(2)(B)), and then drafted a subsequent provision devoted entirely to changes of residence without mentioning the ostensibly specific prohibition on systematic removals for changes of residence (8(d)). That is, this reading asks this Court to find that when Congress wrote “any program” of systematic removal, it meant only removal related to change of residence — despite the fact that the very next sentence in the very next Section shows that when Congress intends to target removal programs “on the ground that the registrant has changed residence,” it explicitly says so. 52 U.S.C. § 20507(d)(1). The contortions conflict with the clear text of the statute. “Any program” means what it says.

In addition to conflicting with the clear text, the alternative readings of the 90-day Provision also make no sense. They offer no coherent rationale why Congress might have imposed a 90-day ban on systematically removing individuals from the voter rolls for some grounds while allowing systematic removals for others in that same period. The Department of Justice comes closest in the attempt but still misses the mark, proposing a sort of hierarchy—present in neither the text of the NVRA nor its legislative history—in which participation by some ineligible voters is worse than participation by others. *Br. for U.S. as Respondent* at 41–42. *Amici* election officials understand ineligible voters to be ineligible, period—and understand these eligibility choices to be reserved to state legislatures, within only constitutional limits. *See Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 16 (2013)

(“Arizona is correct that the Elections Clause empowers Congress to regulate *how* federal elections are held, but not *who* may vote in them.”) (emphasis in original). Once a state legislature has lawfully determined that a voter is ineligible to vote in a particular type of election, neither executive officials nor courts have any mandate to evaluate that voter’s presence or absence from the rolls on a sliding scale.

In contrast, the provision that Congress actually wrote—a ban on all programs designed to systematically remove registrants in the waning days of the election cycle—is entirely logical, and entirely consistent with the basic structure of effective election administration. As the bipartisan National Association of Secretaries of State flatly told Congress in hearings leading up to the NVRA: “Purges should never be conducted immediately before an election.” Nat’l Ass’n Sec’y. State, *Barriers to Voting* 15, *reprinted in* Voter Registration: Hearing Before the Subcomm. on Elections of the Comm. on H. Admin., 101st Cong. 54, 73 (1989). Congress listened. The 90-day Provision represents a careful balance of the need to ensure clean and accurate voter rolls with the due process rights of every eligible voter.

Unlike these alternative constructions, *amici* have always understood the 90-day Provision to be consistent with its plain text. While *amici* may act to prevent ineligible individuals from being placed on the voter rolls at any time, remove ineligible individuals from the voter rolls based on individualized inquiries at any time, and systematically remove ineligible individuals from the voter rolls during many times of the year (consistent with other statutory and constitutional restrictions not at issue in this

case), *amici* may not execute programs within 90 days of the election to systematically remove individuals from the rolls who *amici* believe to be ineligible.

II. A FAITHFUL READING OF THE STATUTORY TEXT FACILITATES EFFECTIVE ELECTION ADMINISTRATION.

This faithful, plain-text reading of the NVRA facilitates effective election administration. It prevents inevitable errors in systematic list maintenance from affecting eligible voters on the eve of an election. Moreover, this reading of the NVRA's plain text eases the heavy administrative burdens on election officials that such errors would generate, without jeopardizing effective list maintenance.

Amici understand based on firsthand experience that systematic removals from the voter rolls carry the inevitable potential for error. As distinguished from error correction based on individual correspondence or rigorous individualized inquiry, systematic programs of mass list maintenance attempt to match records from election officials' computerized voter registration lists with names on other computerized data records. There is nothing inherently wrong with such an effort, conducted carefully and as a first pass for further investigation. Indeed, Congress has directly encouraged officials to employ computerized record matching as a tool for list maintenance in some circumstances. *See* 52 U.S.C. § 21083(a)(2)(A)(ii) (requiring states to "coordinate" voter registration rolls with state agency records on

felony status and death); *but cf. id.* § 21083(a)(2)(A)(i) (specifying that any individual may be removed from the registration rolls only in accordance with the provisions of the NVRA). And *amici* have long done so—under the proper conditions.

However, *amici* have also recognized that such mass matching is not free from error. In some instances, the lists suggesting ineligibility are erroneous, or have been misinterpreted. Individuals who are alive have been thought to be dead. *See, e.g.,* Jake Miller, *Texas Voter Purge Marked by Mistakes, Misidentifications*, CBS News (Nov. 14, 2012), <https://www.cbsnews.com/news/texas-voter-purge-marked-by-mistakes-misidentifications/>. Individuals who are citizens have been thought to be noncitizens. *See, e.g.,* *Arcia*, 772 F.3d at 1341 (explaining that some individuals “were wrongly identified as non-citizens”). Individuals who are not disenfranchised by conviction have been thought to be disenfranchised by conviction. *See, e.g.,* Sarah Rankin, *Youngkin Administration Says 3,400 Voters Removed from Rolls in Error, but Nearly All Reinstated Now*, AP News (Oct. 27, 2023, 2:29 PM), <https://apnews.com/article/glenn-youngkin-voting-rights-virginia-c46eb357a3f6407423a867653956e962> (stating that around 3,400 voters were “removed from the rolls in error”). Individuals whose legal residence remains firmly in place have been thought to have moved, and individuals who reside at legal addresses have been thought to be listed at improper locations. *See, e.g.,* *N.C. State Conf. of the NAACP v. N.C. State Bd. of Elections*, No. 1:16CV1274, 2016 WL 6581284, at *6 (M.D.N.C. Nov. 4, 2016) (explaining that “thousands of [] eligible voters were either in jeopardy of being purged or

were in fact purged from the voter rolls, placing them at risk of being erroneously disenfranchised” close in time to the election).

In other instances, the underlying information on the reference list is accurate, but the matching effort goes awry: the person on the list of ineligible individuals is not the same individual thought to be represented on the voter rolls. The most common such error is caused by attempts to compare one list to another by matching individuals’ names and birthdates. Statistical science shows that most individuals will dramatically underestimate the prevalence of individuals with the same name and birthdate. Given any 460 random voting-age people, there is a 99% chance that at least two share the same full date of birth. See Michael P. McDonald & Justin Levitt, *Seeing Double Voting: An Extension of the Birthday Problem*, 7 Election L.J. 111 (2008); see also Sharad Goel et al., *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*, 114 Am. Pol. Sci. Rev. 456 (2020). This means that among any 460 voting-age individuals with the same name, it is virtually guaranteed that at least two will share the same full date of birth. In registries of any size, this leads to many “birthdate twins.” For example, California’s 2026 registration list contains 3480 unique entries for Maria Hernandez; Texas’s list contains 3551 unique entries for Jose Garcia; Florida’s list contains 1387 unique entries for James Smith; and Pennsylvania’s list contains 1053 unique entries for Michael Smith. From those people with those names in those states alone, even absent the many other common first and last name combinations, statistics predict more than a thousand distinct individuals with the same name and birthdate. That leaves ample opportunity for error.

The existence of errors in underlying information and errors in matching means that a list maintenance program based on comparing one large list to another is virtually guaranteed to yield mistakes. Experience demonstrates that this is not merely speculation: would-be purge lists and some actual purges have indeed fallen victim to these errors, despite the best efforts of election officials. In 2024, for example, a federal court blocked Alabama's last-minute attempt to inactivate 3,251 records of alleged noncitizens; it was later discovered that at least 2,000 (and maybe more) of those records actually belonged to eligible voters. Transcript at 13, Motion Hearing, *Ala. Coal. for Immigrant Justice v. Allen*, No. 2:24-cv-01254 (N.D. Ala. Oct. 16, 2024); Jude Joffe-Block, *U.S. Citizens are Among the Voters Removed in Virginia's Controversial Purge*, NPR (Oct. 30, 2024, 11:25 EST), <https://www.npr.org/2024/10/29/nx-s1-5169204/virginia-noncitizen-voter-purge>. Pressure to engage in large-scale list management with inevitable error is also not always self-imposed. Precisely one week ago, with 21 days remaining in an ongoing election, the U.S. Department of Justice demanded that Los Angeles County refuse to tally ballots corresponding to a list of over 20,000 voters on a "thumb drive," delivered without explanation of the list's provenance or the methodology involved in its creation, if the names on the list could not be verified as eligible within 48 hours. Letter from R. Trent McCotter, Acting Deputy Att'y Gen., U.S. Dep't of Justice, to Dean C. Logan, Los Angeles County Registrar-Recorder/County Clerk (Oct. 13, 2026) <https://rrcc.box.com/s/jwladrl77dwd9ud2hexcw2yeuvm1gnc>; see also Complaint for Declaratory and Injunctive Relief, *United States v. California*, No. 2:26-cv-12025 (C.D. Cal. Oct. 15, 2026), ECF No. 1. Similar federal government lists in other jurisdictions have been riddled with error.

Nick Corasaniti, *From 16,000 to 185 to Zero: Trump's Claims of Illegal Voting in Nevada Fizzle*, N.Y. Times (Sept. 24, 2026), https://www.nytimes.com/2026/09/24/us/politics/nevada-voters-homeland-security-trump.html?eafs_enabled=false. Election officials understand that overly hasty, last-minute programs aiming to systematically remove ineligible voters would inevitably, and unnecessarily, jeopardize the rights of eligible voters in the process.

That these errors may not be intended does not negate their harmful effect. *Amici* do not presume bad faith when individuals or entities claim evidence of ineligible voters on the rolls—whether that evidence comes from private entities or government bodies. Election officials investigate when an investigation is warranted. *Amici* do their best to serve their constituents by ensuring that list maintenance is conducted as accurately as possible, and they presume that colleagues around the country do the same. But as a practical matter, *amici* also understand such errors to be inevitable in a program of systematic removal, even when the removal is designed to be reliable and conducted with the utmost care.

It is much more difficult for election officials to conduct list maintenance with the utmost care when executed on the eve of an election. *Amici* keenly understand the existing heavy burdens on local election administrators in the run-up to Election Day. In the final period before an election, officials are asked to: verify petitions for candidates and ballot measures; review, screen, and process the increasing volume of legitimate incoming voter registration applications and changes to existing voter registrations; design, proofread, and print ballots; review

and respond to requests for absentee ballots; prepare, test, and distribute voting systems; prepare for any early voting process permitted in their jurisdictions; recruit and train poll workers; prepare and distribute precinct registers; seek and secure legally compliant polling places, and ensure that they have sufficient equipment and resources; respond to inquiries from candidates and the voting public; and prepare contingency plans . . . and respond to contingencies that no reasonable person could foresee. Occasionally—and for some *amici*, quite frequently—they must also contend with legal challenges that seek to change the way they conduct any of the tasks above, including serving as parties or witnesses in litigation and responding to any modifications in procedures that the courts impose.

Adding systematic list maintenance to those tasks decreases election officials' ability to perform all of these other election-related activities. Permission for belated mass purges will also inevitably increase demands from external groups to conduct systematic removals, including removals based on evidence of mixed or unknown quality which officials will have to devote time to investigating. These burdens are cumulative and reinforce each other: the increased load at a sensitive time further decreases local officials' ability to perform reliable systematic removal with appropriate quality control. Moreover, because *amici* know that systematic list maintenance contains inevitable errors, they have to not only perform the mass program but also ensure adequate notice to those affected—sometimes with multiple mailings and/or phone calls—and accommodate the incremental responses from eligible citizens wrongly removed. The NVRA's 90-day Provision provides a sensible insulation from these unwanted and unwarranted extra burdens.

Purges on the eve of an election also harm voters. At a farther remove from Election Day, eligible voters have ample opportunity to compensate for errors that officials are not able to eradicate from a program of systematic list maintenance, before those voters are next asked to vote. This process is not cost-free. Eligible voters who have been unintentionally and mistakenly removed from the rolls must have cause to check their registration status, recognize the error, and either petition to correct the error or re-register before the deadline for the upcoming election. But at least 90 days before an election often provides sufficient time to correct damage done by an imperfect program.

In the final days before an election, that opportunity evaporates. There is substantial risk that despite election officials' best efforts, an erroneously removed elector will not receive timely notice of the removal. Even if notice is timely, there may nevertheless be insufficient time for the elector to correct the error before Election Day. If the error generates a dispute, it may be necessary to collect and review incremental documentation or hold a hearing, without the benefit of time to ensure that the proceedings are adequate for the task. This means that a last-minute program of systematic list maintenance does not clean the rolls: to the contrary, it makes them dirtier.

For example, a systematic program of list maintenance executed on the night before Election Day would inevitably remove some eligible voters from the rolls by mistake. The likelihood of error would exist whether the program of removal attempted to target those who are purportedly noncitizens or those who were ineligible for any other reason. Voters wrongfully removed would be entirely

dependent on post-election processes to secure their right to vote. For those who were able to cast provisional ballots, the process would entail post-election administrative review or litigation, with consequent disruption rising with the scale of the error (which itself rises with the scale of the program of systematic removal). For those purged by a large-scale program of systematic removal who were not able to cast provisional ballots, there may be no remedy at all for the loss of their fundamental right to vote.

This risk dissipates, but does not disappear, with increasing distance from Election Day. Some eligible citizens will attempt to vote early, in accordance with state law. Others, by choice or by necessity, will seek to vote by mail substantially before Election Day, to ensure that their ballots are received in time to count. Congress has required absentee ballots to be sent to deployed servicemembers and civilians overseas, no fewer than 45 days before an election, and there is no reason to believe that these voters would be immune from the errors of programs of systematic removal. 52 U.S.C. § 20302(a)(8). Last-minute list maintenance affects these voters far before Election Day itself.

Moreover, last-minute systematic purges ripple far beyond the voters removed from the rolls. Voters erroneously removed who arrive at their polling places on Election Day will not find themselves on the poll books, for reasons neither they nor their poll workers are likely to understand readily, contributing to distrust in the election process itself. Some will attempt to phone local officials to resolve the problem; some will vote provisional ballots. These procedures take incremental time, disrupting the election process for other voters and increasing the

length of lines and the time that every voter will stand and wait to cast a ballot. In addition, a glut of provisional ballots increases the time required to tabulate and report accurate election returns; warranted or not, that post-election delay may undermine all voters' trust in the integrity of the system.

In these waning days of an election cycle, Congress recognized what *amici* have long understood: that errors in a program of systematic purges might unduly jeopardize the votes of eligible citizens and disrupt the smooth progress of an election. The NVRA's 90-day "pencils down" provision represents Congress's considered judgment as to the period of time appropriate to ensure that the unanticipated side effects of a program of systematic removal do not catch erroneously removed eligible voters by surprise. It is a judgment *amici* heartily support.

This judgment does not leave *amici* cause for concern about the accuracy of the voter rolls. Under the NVRA as *amici* have always understood it, election officials have ample control over list maintenance. There is no federal statutory bar to prevent tailored, effective measures to screen applications for ineligible voters before they are placed on the rolls. There is no federal statutory bar to an accurate program to systematically remove ineligible voters from the rolls at any point in the election cycle other than the 90 days before Election Day. And there is no federal statutory bar to an individualized correction or removal of individual registration records, based on individualized information beyond any systematic removal program, at any point. The NVRA's 90-day Provision simply prohibits the least accurate form of list

maintenance precisely when it is likely to do the most damage.

III. EVEN IF FEDERAL AND STATE REGISTRATION FORMS REQUIRE THE SAME MANDATORY INFORMATION, STATE FORMS' DESIGN FLEXIBILITY FACILITATES EFFECTIVE ELECTION ADMINISTRATION.

As explained above, *amici* take no position on whether the NVRA permits states to require information beyond the federal form's requirements. No matter how the statute is construed, however, state forms do not lose their primary purpose if they are not "more demanding" than the federal counterpart, as Petitioner suggests. Br. for Petitioner at 15. *Amici*'s extensive experience with federal and state registration forms shows that state control over form design offers important benefits even when both forms require the same information. State forms can, *inter alia*, contain features that enhance security, better identify and accommodate applicants with special needs, streamline election administration, reflect state-specific rules and practices, expand communication with voters, recruit election workers, and tailor the form layout to serve constituents. A uniform federal form built on a compromise among 50 states cannot perform locally tailored functions as effectively. State forms therefore allow states to "serve as a laboratory; and try novel [] experiments without risk to the rest of the country." *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).

First, some state forms are designed to enhance security through tracking features. For example, in

Indiana, certain voter registration forms include a five-digit NVRA tracking number that corresponds to the government agency source of the form. This information can be used in the event of an audit or to investigate if an unusual number of forms from a particular source contain errors. In contrast, the federal form does not contain such tracking features.

Second, state forms can seek to identify applicants who desire assistance or have special needs, more effectively than the federal form. Utah, Nevada, and Washington, for example, use forms that ask applicants to indicate military or overseas status, enabling election officials to inform these voters affirmatively about tailored voting procedures. Hawaii's forms ask applicants about their relevant disability status, and the state then provides an accessible blank electronic ballot to individuals with an impairment that prevents them from reading standard print. South Dakota authorizes its local officials to produce a large-print version of the state form, for voters who find large print easier to read. And, reflecting the needs of its citizen population, California offers its form in languages that the federal voter registration form does not, not only providing voters with distinct access but also helping officials assess the need for multilingual assistance at the polls. Collecting this information through distinct forms reflects legitimate state choices to help local subdivisions serve military members, overseas voters, people with disabilities, and citizens with limited English proficiency.

Third, state forms often include features that improve administrative efficiency and save election officials time. Some states allow voters to register through an online registration portal. For example, Indiana allows applicants

with a verified driver's license or state identification card to register using its online system. Also, Utah's form asks whether applicants prefer to vote in person or by mail, reducing the need for additional paperwork. This Court has recognized the importance of elections being "operated equitably and efficiently." *Burdick v. Takushi*, 504 U.S. 428, 433 (1992).

Fourth, state voter registration forms can more concisely reflect and educate voters about state-specific voting laws and procedures. For example, Washington and Massachusetts use forms that identify state-law penalties for false information. And Utah's form includes information about how to request additional privacy protections available under state law, including for victims of domestic violence, law enforcement officers, and members of the armed forces. The federal form, by contrast, cannot be tailored as closely to any one state because it must serve all of them.

Fifth, some state forms collect optional contact information not requested by the federal form, improving communication with voters. Kentucky and Vermont, for example, request applicants' email addresses, while Utah requests text-message information and consent. These widely used channels enable officials to contact voters more promptly and effectively, and the information can be used for list maintenance. See *City of Ontario, Cal. v. Quon*, 560 U.S. 746, 760 (2010) (recognizing the "pervasive[ness]" of "text message communications").

Sixth, states such as South Carolina and Connecticut use registration forms to recruit election workers by including an optional question inviting applicants to

express interest in serving as poll workers. Elections require “thousands of state and local officials and volunteers” to “participate in a massive coordinated effort . . . during the election, and again in counting the votes afterwards.” *Democratic Nat’l Comm. v. Wis. State Legislature*, 592 U.S. 1039, 1043 (2020) (Kavanaugh, J., concurring). This recruitment feature is especially valuable during poll-worker shortages.

Seventh, many states have invested in tailoring the visual design and layout of their forms in ways that may better serve their constituents than the federal counterpart. Occasionally, these changes reflect states’ litigation experience. For example, after several voters did not notice particular boxes on Florida’s state voter registration form and litigated their subsequent disenfranchisement, *Diaz v. Cobb*, 541 F. Supp. 2d 1319, 1321 (S.D. Fla. 2008), Florida voluntarily revised the visual layout of its form to make the boxes—and other elements of the form—far more prominent.

DOJ’s NVRA guidance recognizes these various advantages of state forms apart from the collection of additional mandatory information. It explains that a state “form should be easier for applicants to navigate and easier for agencies and election officials to process.” U.S. Dep’t of Just., Civ. Rts. Div., *The National Voter Registration Act of 1993 (NVRA): Questions and Answers, Question 22* (Nov. 1, 2024), <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>. States can tailor their forms accordingly, whereas the Election Assistance Commission designs the federal form through consultation and compromise among many jurisdictions. The guidance also notes that state forms “would not be as

lengthy as the federal form, which contains information about voter registration in each state.” *Id.* Although applicants complete only one page, the federal packet is 27 pages, including a cover page and 22 pages of instructions. In contrast, many state forms are only one or two pages. State forms therefore benefit voters and election officials independent of any incremental required information.

CONCLUSION

Amici take no position before this Court on the ultimate disposition of the underlying issues in this case. But *amici* offer their experience to suggest that the ordinary, common meaning of the plain text of the NVRA’s 90-day Provision implements a blanket moratorium on programs to systematically remove ineligible voters from the rolls at the precise point when such programs could cause the most harm, and removals of alleged noncitizens are no exception to the rule. The 90-day Provision thereby facilitates rather than undermines effective election administration. And *amici* similarly offer their experience to relate the value for election administration in the variety of different ways in which states design their own voter registration forms to facilitate their own voter registration processes, even if those state forms require the same mandatory information as the federal counterpart.

Respectfully submitted,

NORMAN L. EISEN
TIANNA MAYS
POOJA CHAUDHURI
JACKI ANDERSON
DEMOCRACY DEFENDERS FUND
600 Pennsylvania Avenue SE,
#15180
Washington, DC 20003

CHRISTINE BASS
QUEMARS AHMED
PUBLIC RIGHTS PROJECT
490 43rd Street, #115
Oakland, CA 94609

JUSTIN LEVITT
**Counsel of Record*
LOYOLA LAW SCHOOL+
919 Albany Street
Los Angeles, CA 90015
(213) 736-7417
justin.levitt@lls.edu

SAMBO (BO) DUL
COPPERSMITH BROCKELMAN
PLC
2800 North Central Avenue,
#1900,
Phoenix, AZ 85004

+ Institutional affiliation for
purpose of identification
only

Counsel for Amicus Curiae

APPENDIX

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APPENDIX — LIST OF *AMICI CURIAE*

This brief is submitted by the following current and former election officials:

- **Cathy Darling Allen**, former Clerk and Registrar of Voters for Shasta County, California.
- **Seth Bluestein**, current City Commissioner on the Board of Elections for the City of Philadelphia, Pennsylvania.
- **Teresa K. Smith Crawford**, current Member of the Board of Registration and Elections for Fulton County, Georgia.
- **Jilline Dobratz**, current City Clerk for the City of West Bend, Wisconsin.
- **Justin Douglas**, current Chair of the Board of Commissioners for Dauphin County, Pennsylvania.
- **Bill Gates**, former Member of the Board of Supervisors for Maricopa County, Arizona.
- **Jacob Gonzales**, current Chief Deputy County Clerk for San Miguel County, New Mexico.
- **Patty Hansen**, former County Recorder for Coconino County, Arizona (among others).

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- **Celestine Jeffreys**, former City Clerk for the City of Green Bay, Wisconsin.
- **Neal Kelley**, former Registrar of Voters for Orange County, California.
- **Scott O. Konopasek**, former Director of Elections in Salt Lake County, Utah (among others).
- **Michele Konopka**, current Supervising Clerk to the Commissioners of the Board of Elections for Atlantic County, New Jersey.
- **Dele Lowman**, current Board Member and past Chair of the Board of Registration and Elections for DeKalb County, Georgia.
- **Helen Purcell**, former County Recorder for Maricopa County, Arizona.
- **Sam Reed**, former Secretary of State of Washington.
- **Michael Sample**, former County Recorder for Navajo County, Arizona,
- **Dr. Stephanie Singer**, former Chair of the Board of Elections for the City of Philadelphia, Pennsylvania.
- **Susie Spring**, current County Clerk of Parmer County, Texas.

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- **Kate Sweeney Bell**, current County Clerk of Marion County, Indiana.
- **Anita Tucker**, current Secretary for the Board of Registration and Elections in Forsyth County, Georgia.