

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEAGUE OF WOMEN VOTERS OF)	
OHIO, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	Case No. 1:23-CV-2414
v.)	
)	Judge Bridget M. Brennan
FRANK LaROSE, <i>et al.</i> ,)	
)	
<i>Defendants,</i>)	
)	
and)	
)	
REPUBLICAN NATIONAL)	
COMMITTEE and OHIO)	
REPUBLICAN PARTY,)	
)	
<i>Intervenor-Defendants.</i>)	

**MEMORANDUM OF LAW OF THE DISTRICT OF COLUMBIA,
DELAWARE, ILLINOIS, MARYLAND, NEVADA, NEW JERSEY, AND
NEW YORK AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

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INTRODUCTION AND INTEREST OF *AMICI CURIAE*

The District of Columbia, Delaware, Illinois, Maryland, Nevada, New Jersey, and New York (collectively, “*Amici States*”) file this brief as *amici curiae* in support of the plaintiffs.

In our federalist system, the Constitution leaves to the “[s]tates” the primary “power to regulate elections.” *Shelby County v. Holder*, 570 U.S. 529, 543 (2013) (quoting *Gregory v. Ashcroft*, 501 U.S. 442, 461-62 (1991)). Exercising that power, states “indisputably ha[ve] a compelling interest in preserving the integrity of [their] election process.” *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 685 (2021) (quoting *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam)). Meanwhile, states acknowledge that the right to vote is “fundamental” and serves as “preservative of other basic civil and political rights.” *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964). States therefore employ different systems to guarantee that their residents have free and fair access to the franchise, while maintaining election security.

On top of those systems, federal law demands certain safeguards to avoid unduly disrupting the right to vote. Three different federal laws ensure that states do not burden the right to vote for residents with disabilities. Title II of the Americans with Disabilities Act (“ADA”) prohibits any “qualified individual with a disability . . . by reason of such disability” from being “excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity.”

42 U.S.C. § 12132. Section 504 of the Rehabilitation Act (“RA”) provides that “[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.” 29 U.S.C. § 794(a). And Section 208 of the Voting Rights Act of 1965 (“VRA”) mandates that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508. Thus, in regulating elections, states must balance several interests: preserving electoral security, securing their residents’ right to vote, and complying with federal protections.

This case concerns the balancing of these interests in the context of collecting absentee and mail-in ballots. States that permit absentee voting must decide who may return a voter’s physical ballot if the voter cannot do so. On one hand, states want to encourage all eligible voters to participate in the democratic process and to count all legally cast votes, including the votes of disabled residents. On the other hand, states must ensure that those who vote via absentee ballots are, in fact, casting a legal vote. All the while, states must guarantee that their absentee-ballot schemes

comply with federal-disability protections. States have thus crafted various rules, called ballot-collection laws, regarding who may collect and return another person's absentee ballot. *See Table 10: Ballot Collection Laws*, Nat'l Conf. of State Legislatures (May 16, 2024), <https://tinyurl.com/y9fu8fpa>. As detailed below, the District of Columbia and 8 states do not explicitly limit who may return another's ballot, 38 states allow but regulate in various ways third-party ballot returns, and only 4 states require the voter to return their own ballot. Moreover, the vast majority of states include specific protections to assist absentee voters with disabilities.

Contrary to the consensus among most states, the Ohio ballot-collection law fails to adequately support voters with disabilities. The law makes it a felony for anyone but postal workers and a narrow set of family members to possess and return another voter's ballot, with almost no regard to that voter's disability status. Ohio Rev. Code Ann. § 3599.21(A)(9)-(10), (C); *see id.* § 3509.05(C)(1) (listing authorized family members); *see also id.* § 3509.08(A) (providing one narrow exception for voters entirely unable to travel due to a disability). *Amici* States recognize that states have considerable discretion to decide how best to regulate ballot collection. But the Ohio law is out of step with most state laws, and out of line with federal law. By narrowly limiting who can collect ballots with minimal exceptions for disabled voters, Ohio's law will harm many residents of the state, provide little additional election security, and jeopardize the promise that

government remains “collectively responsive to the popular will.” *Reynolds*, 377 U.S. at 565. *Amici* States thus urge this Court to grant the plaintiffs’ motion for summary judgment.

ARGUMENT

I. Ohio’s Third-Party Ballot-Collection Law Is Out Of Step With Nearly All Other State Laws.

Given the modern prevalence of absentee voting schemes, states have made different choices concerning how to regulate third-party ballot collection. Some have chosen not to legislate on the issue, and a small minority ban the practice altogether, but most fall in between, regulating in some way who may collect and submit another voter’s absentee ballot.

Ohio’s law stands out as one of the most inflexible ballot-collection schemes in the country. The statute makes it a fourth-degree felony for any person to “knowingly” “[r]eturn the absent voter’s ballot of another to the office of a board of elections, unless either” they are an authorized relative under Ohio Rev. Code Ann. § 3509.05(C)(1) or a postal worker. Ohio Rev. Code Ann. § 3599.21(A)(9). It also bans any person from “possess[ing]” another’s ballot unless they are an authorized relative or otherwise permitted to possess it under overseas and military voter laws. *Id.* § 3599.21(A)(10). Authorized relatives, meanwhile, comprise only “the spouse of the elector, the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter,

adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of the elector.” *Id.* § 3509.05(C)(1). The provision provides nearly no exceptions for voters with disabilities.¹

Amici States recognize that states maintain broad authority to regulate elections and flexibility to place reasonable limits on who can collect and submit another voter’s ballot. But Ohio’s criminal law goes further than most other states. By substantially cabining who can help a voter exercise the franchise without providing notable carveouts for disabled voters, Ohio’s law could disenfranchise many of its most vulnerable residents.

A. Nine jurisdictions do not limit who may return another’s ballot.

The District of Columbia and nine states have chosen to remain largely silent on who can return another’s ballot, implicitly allowing anyone to help and therefore providing adequate protection for voters with disabilities. Alaska, Delaware, the District of Columbia, Nebraska, New York, Rhode Island, and Wyoming have no restrictions. *See* Alaska Stat. § 15.20.081(a); Del. Code Ann. tit. 15, § 5507(4)(b); 3 DCMR § 720.12; Neb. Rev. Stat. §§ 32-943(4), 32-947(3); N.Y. Elec. Law §§ 8-410, 8-708; 17 R.I. Gen. Laws § 17-20-23(c); Wyo. Stat. § 22-9-113.

¹ Another provision provides one narrow option for voters who are completely unable to travel because of a disability, though not for voters who would merely face obstacles to travel. Ohio Rev. Code Ann. § 3509.08(A).

Virginia is similarly silent as to who may *mail* another’s absentee ballot, but it allows voters to return only their own ballot *in person*. Va. Code Ann. § 24.2-707(B). And although Washington provides that the “voter must be instructed to either return the ballot to the county auditor . . . or mail the ballot to the county auditor,” Wash. Rev. Stat. § 29A.40.091(4), “[c]urrently, [the state] has no restriction on who can collect other voters’ ballots,” Seattle Times Ed. Bd., *Regulate Ballot Collection in Washington Elections*, Seattle Times (Feb. 2, 2020), <https://tinyurl.com/3rd7pua3>.

B. Thirty-eight states regulate third-party ballot collection, but most provide more support for voters with disabilities than Ohio.

Thirty-eight states (including Ohio) regulate third-party ballot collection in some way. These regulations reflect states’ different choices to balance maximizing voter turnout and minimizing threats to election security. But nearly all these states at the very least ensure that their residents with disabilities have sufficient access to the franchise. Ohio is among the rare exceptions without such protections.²

Most expansively, two states—Nevada and Oregon—explicitly allow voters to designate anyone to mail their ballot, without restrictions. Nev. Rev. Stat. Ann. § 293.269923(1); Or. Rev. Stat. Ann. § 254.470(6)(d)-(e). Similarly, California

² A few other states also join Ohio in criminalizing the mere *possession* of another’s ballot. *See, e.g.*, Ariz. Rev. Stat. Ann. § 16-1005(H), (I)(2)(b); Fla. Stat. § 104.0616(2); Ky. Rev. Stat. Ann. § 117.0861(1); Tex. Elec. Code § 86.006(f).

allows a voter to designate any other person to mail their ballot, so long as that person does not receive compensation based on the number of ballots they return and does not engage in any criminal acts related to that ballot. Cal. Elec. Code § 3017(a)(2), (d)-(e). And while a Montana statute limits ballot collection to family members, household members, and caretakers, Mont. Code Ann. § 13-35-703, the Montana Supreme Court held that statute and similar replacement legislation unconstitutional under the Montana Constitution, *Mont. Democratic Party v. Jacobsen*, 2024 MT 66, ¶¶ 79-110, 416 Mont. 44, 545 P.3d 1074, 1100-04, leaving in place no restrictions on ballot returns.

Fourteen states allow voters to choose nearly anyone to return their ballot, but with moderate restrictions. For instance, Hawaii permits anyone to assist so long as the voter “affirms” that the third-party aides are not “the voter’s employer, or agent of the employer, agent of the voter’s labor union, or any candidate listed on the ballot.” Haw. Rev. Stat. § 11-104(a)(4). Four other states also require sworn authorizations or in-person returns by agents. 10 Ill. Comp. Stat. Ann. § 5/19-6 (requiring an authorization attestation by both the voter and designee on a mail-in ballot envelope); S.C. Laws Ann. § 7-15-385(A)(3), (B) (requiring in-person delivery and an authorization form by the voter); S.D. Codified Laws § 12-19-9 (requiring in-person delivery by authorized messenger); Md. Code Ann., Elec. Law § 9-307 (allowing return by anyone 18 years old, who is not a candidate and who is

designated in writing by the voter under the penalty of perjury, and after executing an affidavit). Seven states further limit the number of ballots any one agent may deliver. Vt. Stat. Ann. tit. 17, § 2543(d)(1), (f) (25 ballots); Colo. Rev. Stat. § 1-7.5-107(4)(b)(I)(B) (ten ballots); Kan. Stat. Ann. §§ 25-1128(g), 25-2437 (ten ballots, with written authorization); N.J. Stat. Ann. § 19:63-16(d) (three ballots generally and five ballots if they are immediate family members residing in the same household, with signed certification by the ballot returner); N.D. Cent. Code Ann. § 16.1-07-08(1) (four ballots, with written authorization, and forbidding payment); Minn. Stat. Ann. § 203B.08, subdiv. 1(b) (three ballots); Fla. Stat. §§ 101.65(9), 104.0616(2) (two ballots, excepting immediate family members); La. Stat. Ann. § 18:1308(B)(1) (one ballot, excepting immediate family members, and requiring sworn statement by third party). An eighth state, Arkansas, also caps the number of returns, Ark. Code Ann. § 7-5-403 (two ballots), but a district court permanently enjoined the law in 2022 as preempted by Section 208 of the VRA, *Ark. United v. Thurston*, 626 F. Supp. 3d 1064, 1088 (W.D. Ark. 2022). And one state, Maine, prohibits candidates or candidates' immediate family from acting as the third-party returner and caps all eligible third-party returners at five unreturned ballots. Me. Rev. Stat. Ann. tit. 21-A, § 753-B(2); *see id.* §§ 753-A(3)(C)(1), 753-B(3) (further requiring a written request to designate a third-party returner and third-party

returners to deliver an absentee ballot to the clerk within two business days of issuance).

Fifteen states plus Ohio allow third-party ballot collection, yet limit who can collect ballots. But while their laws may differ, nearly all states more robustly support voters with disabilities than Ohio.

For instance, three states with otherwise narrow designee options broaden those options for voters with disabilities. Along with allowing family and household members to return others' ballots, Texas permits voters who are blind, unable to read the ballot's language, or disabled such that they cannot deposit their ballot in the mail to select someone "other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs." Tex. Elec. Code Ann. §§ 64.032(c), 86.006(f)(4), 86.010. Iowa likewise allows "a delivery agent to return" a voter's ballot if the voter cannot "due to reason of blindness or any physical disability other than intoxication." Iowa Code Ann. § 53.33(3). Delivery agents are capped at two ballots per election, but they can be any registered voters who are not the voters' employers, agents of their union, agents of a political party, or candidates. *Id.* § 53.33(1)(a), (4). And Connecticut, for its part, allows voters with disabilities to choose

- (1) a person who is caring for the applicant because of the applicant's illness or physical disability, including, but not limited to, a licensed physician or a registered or practical nurse,
- (2) a member of the applicant's family, who is

designated by an absentee ballot applicant and who consents to such designation, or (3) a police officer, registrar of voters, deputy registrar of voters or assistant registrar of voters in the municipality in which the applicant resides.

Conn. Gen. Stat. Ann. § 9-140b(a) to (b).

Three other states provide specific carveouts for disabled voters by having election officials go to them. These carveouts appear broader than Ohio's narrow option available only to voters who are completely unable to travel. Ohio Rev. Code Ann. § 3509.08(A). While Michigan voters can usually rely on only immediate family members to deliver their ballots, if family cannot help, then "[t]he clerk [who issued the ballot] is required to provide assistance" by picking up the ballot from the voter. Mich. Comp. Laws Ann. § 168.764a (further requiring that the voter call "before 5 p.m. on the Friday immediately preceding the election" and explaining that the ballot will be picked up "within the jurisdictional limits of the city, township, or village in which [the voter is] registered"). Indiana usually allows only family members, household members, or attorneys to deliver a ballot in person or by mail. Ind. Code Ann. § 3-11-10-24(e)(3). But for anyone voting absentee because of "illness or injury," "caring for a confined person at a private residence," or "disabilities" with an inaccessible precinct, "an absentee voter board shall visit the voter's place of confinement or the residence of the voter with disabilities" and take their vote. *Id.* § 3-11-10-25(a)-(b). Finally, in Arizona, if electors are "confined as

the result of a continuing illness or physical disability,” they can arrange for an official on the special election board to bring them a ballot and return that ballot on their behalf. Ariz. Rev. Stat. Ann. § 16-549(C), (E). Unlike Ohio, where voters must place a written application with specific details about their disability, Ohio Rev. Code Ann. § 3509.08(A), Arizona law allows the request to be made verbally, Ariz. Rev. Stat. Ann. § 16-549(C). Plus, Arizona law allows family members, household members, and caregivers to collect others’ ballots. *Id.* § 16-1005(H), (I)(2).

Four other states have no specific disability-related provisions, but they too offer more return options than Ohio. Although New Mexico restricts in-person or mailing agents to “caregiver[s]” or “member[s] of th[e] voter’s immediate family or household,” it broadly defines immediate family to include any “person with whom the voter has a continuing personal relationship” and places no restrictions on who qualifies as a “caregiver.” N.M. Stat. Ann. § 1-6-10.1. Georgia similarly defines caregiver broadly, though it narrows the list of family members who can collect and submit ballots. Ga. Code Ann. § 21-2-385(a). Mississippi’s law, meanwhile, permits collecting ballots by a wide range of in-facility caregivers, any individual related “by blood, marriage, adoption or legal guardianship” to the voter, and anyone who resides in the same household. S.B. 2425, 2024 Reg. Sess., § 1 (Miss. 2024),

<https://tinyurl.com/2rhy4aep>;³ *see* Miss. Code Ann. § 23-15-907. And Kentucky allows the collection of ballots by election officials, postal workers, designated family and household members, designated household members, both in-residence and in-facility caregivers who ordinarily help with mail, and employees of a jail. Ky. Rev. Stat. Ann. § 117.0861(1).

Finally, five states, like Ohio, allow *only* family members to help voters. But even three of those states are more flexible in important ways. For example, although Massachusetts requires the “voter” to “return [a ballot] by mail” or “via a secured municipal drop box,” it allows *any* “family member” to “deliver it in person.” Mass. Gen. Laws ch. 54, § 92(a). Plus, it provides other options for voters who are patients in health care facilities or who face medical emergencies right before an election. *Id.* § 92(b)-(c); *see id.* § 91B(b)-(c). Similarly, while New Hampshire constrains which family members can return a ballot, N.H. Rev. Stat. Ann. § 657:17(I)(a), (II)(a) (permitting “[t]he voter’s spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, [or] stepchild” to “personally deliver the envelope”), it offers more choices for blind

³ This Mississippi law takes effect July 1, 2024. Before Mississippi amended its law to include definitions of family members, household members, and caregivers, a district court had preliminarily enjoined the law as conflicting with Section 208 of the VRA. *Disability Rts. Miss. V. Fitch*, 684 F. Supp. 3d 517, 522 (S.D. Miss. 2023), *appeal docketed*, No. 23-60463 (5th Cir. Aug. 28, 2023). That case remains pending.

or disabled voters who cannot mark their ballots and voters in nursing homes or residential care facilities, *id.* § 657:17(II)(b)-(d). And despite Oklahoma’s rule that only spouses may collect others’ ballots, the state still grants additional avenues to vote for physically incapacitated voters and those “confined to a nursing home or State Veterans Home.” Okla. Stat. Ann. tit. 26, § 14-101.1(B)(1) to (2), (5).

Of those states that allow *some* third-party ballot collection, only two—Missouri and North Carolina—have similar limits as Ohio, with agents constrained to a set of family members and without any additional flexibility for voters with disabilities. But those states at least allow for voters’ grandchildren to deliver their ballots—a key familial relationship missing from Ohio’s law, as stressed in the plaintiffs’ complaint. Mo. Ann. Stat. § 115.291(2); N.C. Gen. Stat. Ann. §§ 163-226(f), 163-226.3(a)(5); *see* Compl. ¶¶ 4, 41, 67, 79.

And courts have cast doubt on Missouri’s and North Carolina’s laws. A district court ruled that North Carolina’s law is preempted by Section 208 of the VRA. *Disability Rts. N.C. v. N.C. State Bd. of Elections*, No. 21-cv-361, 2022 WL 2678884, at *6 (E.D.N.C. July 11, 2022). And a state appellate court construed Missouri’s predecessor statute (which had no option for even a family member to deliver one’s ballot) to “*not* require the voter to personally deposit his ballot in the mail,” because that construction “would defeat itself in the case of those who are sick or physically disabled” and “be unable to mail ballots except through an agent.”

In re Rodriguez, 558 S.W.2d 356, 360-61 (Mo. Ct. App. 1977) (emphasis added) (citation omitted).

C. Only four states prohibit third-party ballot collection altogether.

Alabama, Pennsylvania, Tennessee, and Wisconsin each demand that the “voter,” Ala. Code § 17-11-9; Tenn. Code Ann. § 2-6-202(e), or “elector,” 25 Pa. Stat. Ann. § 3146.6(a); Wis. Stat. Ann. § 6.87(4)(b)(1), return their own ballot. These states have no apparent exceptions for voters with disabilities.

II. *Amici* States’ Experiences Suggest That Ohio’s Outlier Law Harms Voters With Disabilities And Provides Few Benefits.

Amici States recognize their sovereign interests in designing election systems, including in designing third-party ballot-collection systems. But those systems must comply with the ADA, the RA, and the VRA, each of which mandates that voting systems, once offered, remain equally accessible to voters with disabilities. *See* 42 U.S.C. § 12132; 29 U.S.C. § 794(a); 52 U.S.C. § 10508. In conflict with those protections, Ohio’s law makes voting tougher for voters with disabilities. And it does so without any notable benefit to election safety. Other district courts have already held that equally or less restrictive ballot-collection laws conflict with federal-disability protections. *See, e.g., Ark. United*, 626 F. Supp. 3d at 1088; *Disability Rts. Miss.*, 684 F. Supp. 3d at 522; *Disability Rts. N.C.*, 2022 WL 2678884, at *6. This Court should do the same.

In debating ballot-collection laws, state representatives have recognized that more flexible third-party ballot-collection provisions benefit voters, disabled or otherwise, who face obstacles to exercising the franchise. In supporting Nevada’s ballot-return expansion, for example, one assemblyperson “recognize[d] that many Nevadans live in remote communities” and “may have no relative who can transport their ballot.” *Hearing on Assemb. B. 321 Before the S. Comm. on Fin.*, 81st Sess. 27-28 (Nev. May 29, 2021) (statement of Assemb. Jason Frierson, Assemb. Dist. No. 8), <https://tinyurl.com/33uf8ks9>; *see id.* at 29-30 (statement of Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada) (“[D]rop boxes along with ballot collection increase access to the ballot for both busy urban workers as well as our rural and tribal communities where physical distance can be a challenge to participation.”). Opponents of Texas’s addition of criminal sanctions for some types of ballot collection, meanwhile, worried that it would “disenfranchise certain voters,” “especially minority and elderly residents” because “people would be less likely to want to provide . . . assistance in their communities if they perceived that a single misstep could result in a criminal act.” Bill Analysis of C.S.H.B. 54, 78th Leg., Reg. Sess. 7 (Tex. Apr. 8, 2003), <https://tinyurl.com/yt74un8d>.

Likewise, by narrowing who can return a voter’s ballot, Ohio’s law makes it more difficult for anyone to vote, and the law will likely affect voters with disabilities the most. Voters with disabilities already vote less than voters without

disabilities. In the 2022 elections, there was a 3.6% turnout gap between the two groups. Lisa Schur et al., *Disability and Voting Accessibility in the 2022 Elections* 8 (U.S. Election Comm'n 2023), <https://tinyurl.com/ms2c98jb>. When adjusted for age, that gap grew to 10.0%. *Id.*

What is more, disabled individuals who do vote admit to needing help returning their ballots—and they often receive help from people not permitted by Ohio's law. For disabled voters who voted in the last two federal election cycles, 9.5% and 9.9% respectively needed assistance with returning their ballot. *Id.* at 38. In 2020, 55.8% of that group used a family member who lived with them, and 18.7% used a family member who did not live with them. *Id.* Ohio's law would prohibit some, but not all, of those voters from receiving that help. And 4.1% used a nonfamily roommate, 8.0% used a friend or neighbor, 6.6% used a home aide, and 6.0% used someone else unclassified. *Id.* Ohio would not permit any of these individuals to collect and cast ballots for disabled individuals. The numbers in 2022 are even starker: among disabled voters who required assistance with returning their ballot, only 33.9% used a family member who lived with them, and 11.0% used a family member who did not live them. *Id.* That year, 11.3% used a nonfamily roommate, 20.6% used a friend or neighbor, and 13.8% used someone else unclassified. *Id.* Many of those voters could be disenfranchised under Ohio's law.

Besides harming individuals with disabilities, Ohio’s law likely does not appreciably increase election security. To be clear, election security—while a compelling state interest—would not by itself excuse a discriminatory state law that conflicts with the ADA, the RA, or the VRA. But the lack of benefits from this law only emphasizes its unlawfulness.

To start, more voters are voting by mail than ever. Between 1996 and 2016, the share of ballots cast by mail rose from 7.8% to 20.9%. Hannah Hartig et al., *As States Move to Expand the Practice, Relatively Few Americans Have Voted by Mail*, Pew Rsch. Ctr. (June 24, 2020), <https://pewrsr.ch/3T8irVC>. Mail-in voting increased even more during the 2020 elections given the COVID-19 pandemic, and has maintained popularity since, with 31.9% of votes cast in the 2022 elections by mail. U.S. Election Assistance Comm’n, *Election Administration and Voting Survey 2022 Comprehensive Report 9*, 33-34 (2023), <https://tinyurl.com/d973vyc5>.

Importantly, physical absentee voting is rarely fraudulent. Wendy R. Weiser & Harold Ekeh, *The False Narrative of Vote-by-Mail Fraud*, Brennan Ctr. for Just. (Apr. 10, 2020), <https://tinyurl.com/ysyvh72e> (discussing an investigative analysis that “identified only 491 cases of absentee ballot fraud from 2000 to 2012,” among billions of ballots cast). And most relevant here, voter fraud has not proven more prevalent in states with expansive third-party ballot-collection practices, and no evidence shows that ballot collection has resulted in fraud to any meaningful degree.

See Ali Swenson, *Fact Focus: Gaping Holes in the Claim of 2K Ballot ‘Mules,’* Assoc. Press (May 3, 2022), <https://tinyurl.com/ps4c8c7f>; Reuters Fact Check, *No Evidence of Widespread Ballot ‘Harvesting’ Ahead of the U.S. Midterm Election* (Oct. 20, 2022), <https://tinyurl.com/cfaj6n6a>. In fact, based on one review of voter fraud cases from 1982 to 2020, only 207 instances were identified to be from absentee ballots, and only 5 of those instances “were tied to ballot harvesting schemes.” Matt Barreto et al., *Debunking the Myth of Voter Fraud in Mail Ballots* 6 (UCLA Voting Rights Project 2020), <https://tinyurl.com/5yex2tcu>.

As described above, states have implemented many minimally obstructive ways—like requiring signed affidavits or authorization forms—to ensure that ballot collection does not result in fraud. By all indications, those efforts have worked. There are almost no examples of potential irregularities with third-party ballot collection and return. See, e.g., Susan Haigh, *Connecticut City’s ‘Mishandled Ballots’ Fuel Election Skeptics. Experts Call Problem Local, Limited*, Assoc. Press (Nov. 2, 2023), <https://tinyurl.com/3p8s6tkf>; Richard Gonzales, *North Carolina GOP Operative Faces New Felony Charges That Allege Ballot Fraud*, Nat’l Pub. Radio (July 30, 2019), <https://tinyurl.com/mryet6hp>. And in at least one prosecution of a ballot collector, the ballots themselves were shown to be legitimate. Bob Christie, *Arizona Woman Sentenced to 30 Days in Jail for Collecting 4 Ballots*, azcentral. (Oct. 14, 2022), <https://tinyurl.com/4ppu7t9w>.

Unsurprisingly, then, states that have broadened ballot-collection laws have recognized that prior restrictions did little to prevent fraud. For instance, the author of California’s expansion of third-party ballot collection noted that prior restrictions to only specific individuals were “a well-meaning attempt at defining those who would be trusted by the voter” but ended up “provid[ing] yet another obstacle for individuals attempting to vote, without any evidence based justification against voter fraud.” Assemb. Floor Analysis of Assemb. B. 1921, 2015-2016 Sess. 2 (Cal. Aug. 26, 2016), <https://tinyurl.com/mvnhtm4a>. And a Nevada assemblyman noted that “a robust signature verification process,” as well as criminalizing “fraudulently collect[ing] ballots on a mass basis,” provide sufficient protections. *Hearing on Assemb. B. 321 Before the S. Comm. on Fin.*, 81st Sess. 28 (Nev. May 29, 2021) (statement of Assemb. Jason Frierson, Assemb. Dist. No. 8).

All told, safe and nondiscriminatory ballot-collection laws exist throughout the country. Ohio’s outlier law strays from those reasonable regulations, without providing meaningful election security—and while conflicting with federal law by obstructing or denying the franchise to many residents with disabilities.

CONCLUSION

The Court should grant the plaintiffs' motion for summary judgment.

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Respectfully submitted,

BRIAN L. SCHWALB
Attorney General for the
District of Columbia

CAROLINE S. VAN ZILE (*Pro Hac Vice*)
Solicitor General

ASHWIN P. PHATAK
Principal Deputy Solicitor General

/s/ Subodh Chandra
SUBODH CHANDRA
The Chandra Law Firm LLC
The Chandra Law Building
1265 W 6th Street, Suite 400
Cleveland, OH 44113
(216) 578-1700
(216) 578-1800 (fax)
Subodh.Chandra@ChandrawLaw.com

SEAN FRAZZETTE
Assistant Attorney General
Office of the Solicitor General

Office of the Attorney General
400 6th Street, NW, Suite 8100
Washington, D.C. 20001
(202) 724-6609
(202) 741-0649 (fax)
caroline.vanzile@dc.gov

On behalf of:

KATHLEEN JENNINGS

Attorney General

State of Delaware

Delaware Department of Justice

820 North French Street

Wilmington, DE 19801

LETITIA JAMES

Attorney General

State of New York

28 Liberty Street

New York, NY 10005

KWAME RAOUL

Attorney General

State of Illinois

115 South LaSalle Street

Chicago, Illinois 60603

ANTHONY G. BROWN

Attorney General

State of Maryland

200 Saint Paul Place

Baltimore, MD 21202

AARON D. FORD

Attorney General

of Nevada

100 North Carson Street

Carson City, NV 89701

MATTHEW J. PLATKIN

Attorney General

State of New Jersey

Richard J. Hughes Justice Complex

25 Market Street

Trenton, NJ 08625