

**SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA; AMERICAN
CIVIL LIBERTIES UNION FOUNDATION,

Plaintiffs,

v.

STATE OF GEORGIA,

Defendant.

Civil Action File No. 26CV007672

**VERIFIED COMPLAINT SEEKING
DECLARATORY AND INJUNCTIVE RELIEF**

1. A Georgia law enacted in 2021 and amended in 2023 bans elections officials and poll workers from accepting “a contribution, donation, service, or anything else of value . . . in support of performing his or her duties.” O.C.G.A. § 21-2-18(c). On its face, the statute sweeps broadly; the only textual exceptions to the ban are “the donation or use of locations for voting purposes, services provided by individuals without remuneration, or goods that have nominal value of less than \$500.00.” *Id.* § 21-2-18(d). Violation of the statute is a felony, carrying serious and mandatory criminal sanctions of imprisonment for at least one year and a fine of at least \$10,000. *Id.* § 21-2-18(e).

2. The text of O.C.G.A. § 21-2-18 could be read to forbid the provision of pro bono legal services for elections officials and poll workers by attorneys who are compensated by their organizational employers. In the eyes of the Georgia officials tasked with enforcing Section 21-2-18, legal representation may be a “service[] or [some]thing else of value” and, when provided to an elections worker for claims related to their work, may be offered “in support of performing his or her duties.” *Id.* § 21-2-18(c).

3. Such pro bono legal services do not clearly fit into the exception for “services provided by individuals without remuneration,” *id.* § 21-2-18(d), when counsel is compensated by their employer, even if not by their client.

4. Recent Georgia elections have prompted extensive litigation and will likely do so in the future. These suits include direct challenges to elections procedures and results and other election-related lawsuits, and have presented a variety of claims, causes of action, and defenses. Many of these suits name elections officials and poll workers as parties or key witnesses.

5. Plaintiffs the American Civil Liberties Union Foundation (“ACLU”) and the American Civil Liberties Union Foundation of Georgia (“ACLU-GA”) are civil rights organizations committed to advancing the civil rights and civil liberties of all Georgians. These include voting rights, and ACLU and ACLU-GA have worked to expand access to the franchise; ensure free and fair elections; and defend lawful electoral results from baseless attacks. ACLU and ACLU-GA do so through advocacy, public education and communications, and—particularly relevant here—litigation.

6. The ability to provide pro bono legal services to elections officials, poll workers, and other elections workers is essential to ACLU and ACLU-GA’s work. Georgia poll workers have been targets of harassment and bogus challenges, often tied to attempts to overturn election results. ACLU and ACLU-GA view providing representation to these elections officials as integral to their mission to protect Georgians’ voting rights and the democratic process.

7. This pro bono representation is core political speech. A legal organization’s participation “in litigation as a vehicle for effective political expression and association, as well as a means of communicating useful information to the public,” falls squarely within the protections of the federal First Amendment and its Georgia corollary. *In re Primus*, 436 U.S. 412, 431 (1978);

see also Grady v. Unified Gov't of Athens-Clarke Cnty., 289 Ga. 726, 729 (2011) (noting the “traditional alignment” of the Georgia Constitution’s free speech clause “with First Amendment doctrine”). In overturning a regulation used to discipline “an officer and cooperating lawyer” of a branch of the ACLU, the *Primus* Court held that the ACLU’s litigation efforts to “advanc[e] the cause of civil liberties . . . depend[ed] on the ability to make legal assistance available to suitable litigants.” *Id.*

8. The risk that Section 21-2-18 could be read to cover this representation chills ACLU and ACLU-GA from engaging in this constitutionally-protected speech. Because of Section 21-2-18, ACLU and ACLU-GA and their potential clients fear criminal sanctions, and ACLU and ACLU-GA have declined to move forward with representing certain clients due to the risk of liability under Georgia law.

9. ACLU and ACLU-GA therefore seek declaratory and injunctive relief against Section 21-2-18. They are entitled to a declaration stating that if Section 21-2-18 were applied to the provision of pro bono legal services to elections officials, poll workers, and other elections workers, it would be unconstitutional, and an injunction preventing enforcement of Section 21-2-18 in these circumstances.

PARTIES

10. Plaintiff ACLU is a nationwide non-partisan, nonprofit membership organization, founded in 1920. The ACLU works to protect the civil rights and civil liberties, including the voting rights, of all Americans, with 54 affiliates across the United States.

11. Plaintiff ACLU-GA is the Georgia affiliate of Plaintiff ACLU and was founded in 1963. It works to protect Georgians’ civil liberties and rights, as guaranteed by the United States and Georgia Constitutions, through legal action, legislative and community advocacy, and civic

education and engagement. It is headquartered in Atlanta and has more than 26,935 members statewide.

12. Defendant State of Georgia is the proper Defendant in this matter under Article I, Section II, Paragraph V(b)(2) of the Georgia Constitution. This action is brought to declare that application of a section of Georgia statutory law in certain factual circumstances would be unconstitutional and to enjoin its enforcement. This section is enforced through criminal proceedings brought by county district attorneys and solicitors general. *See* O.C.G.A. §§ 15-18-6, 15-18-66. The challenged law is also enforced through administrative enforcement proceedings by the State Election Board (SEB). The SEB is an agency of the State of Georgia. O.C.G.A. § 21-2-30(a). Pursuant to Article I, Section II, Paragraph V(b)(2) of the Georgia Constitution, this action must be filed against the State, rather than these officials.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over this matter pursuant to Article I, Section II, Paragraph V(a) of the Georgia Constitution and O.C.G.A. §§ 9-4-2(a), 9-4-3(a), and 9-5-1.

14. Personal jurisdiction over the State and venue are proper pursuant to Article VI, Section II, Paragraph VI of the Georgia Constitution.

FACTS

15. On March 25, 2021, Georgia Governor Brian Kemp signed Georgia Senate Bill 202 into law.

16. That law included a limitation on funding for local elections officials, providing that: “No superintendent [of elections] shall take or accept any funding, grants, or gifts from any source other than the governing authority of the county or municipality, the State of Georgia,

or the federal government.” O.C.G.A. § 21-2-71(b) (eff. Mar. 25, 2021, to May 2, 2023). A parallel provision also barred county boards of registrars from accepting any funding from non-governmental sources. *See* O.C.G.A. § 21-2-212(f) (eff. Mar. 25, 2021, to May 2, 2023).

17. O.C.G.A. § 21-2-18 was amended in May 2023, broadening its scope. *See* 2023 Ga. Laws, Act 273 (May 3, 2023).

18. As a result of the May 2023 amendments, in addition to superintendents of elections, a county or municipality itself also may not receive any grants or gifts, other than from the State of Georgia or the federal government. *See* O.C.G.A. § 21-2-71(b).

19. The May 2023 amendments also added the provision at issue here. Section 21-2-18 reads:

Notwithstanding any other provision of law to the contrary, no county or municipal government, government employee, or election official shall solicit, take, or otherwise accept from any person a contribution, donation, service, or anything else of value for the purpose of conducting primaries or elections or in support of performing his or her duties under this chapter.

O.C.G.A. § 21-2-18(c). A “government employee” is defined to “include, but not be limited to, election superintendents, registrars, poll workers, and the agents and employees thereof.” *Id.* § 21-2-18(a)(1).

20. Section 21-2-18 contains a proviso, stating that it “shall not apply to the donation or use of locations for voting purposes, services provided by individuals without remuneration, or goods that have nominal value of less than \$500.00.” *Id.* § 21-2-18(d).

21. A violation of Section 21-2-18 carries serious criminal penalties: “Violation . . . shall constitute a felony, and upon conviction shall be punished by imprisonment for not less than one year and by a fine of not less than \$10,000.00.” *Id.* § 21-2-18(e).

22. Section 21-2-18 is also enforceable by the SEB. *See* O.C.G.A. § 21-2-33.1(a). Administrative proceedings for violations of Georgia Election Code through SEB can result in fines of up to \$5,000.00. *Id.*

23. Since its enactment, Section 21-2-18 has chilled the speech of ACLU and ACLU-GA, causing them to forgo representing certain clients out of fear of criminal liability.

24. ACLU and ACLU-GA engage in substantial affirmative litigation, representing voters and civic organizations as clients in cases brought to protect Georgians' voting rights. *See, e.g., Ayota v. Fall*, No. 24GC08111 (Cobb Cnty. Sup. Ct. filed Nov. 1, 2024) (representing three voters in a challenge to a county's failure to timely mail more than 3,000 absentee ballots to voters); *Eternal Vigilance Action, Inc. v. Georgia*, No. 24CV011558 (Fulton Cnty. Sup. Ct. motion to intervene filed Oct. 1, 2024) (representing two civil rights groups in a challenge to State Elections Board rules); *Sixth Dist. of the African Methodist Episcopal Church v. Kemp*, No. 1:21-MI-55555-JPB (N.D. Ga. filed Mar. 30, 2021) (representing religious group, historically Black sorority, and two disability-rights organizations in challenge to various provisions of Georgia election law).

25. Since the passage of Section 21-2-18, ACLU and ACLU-GA have refrained from representing elections officials, poll workers, and other elections workers as clients, due to the risk of liability under Section 21-2-18. This has limited the types of cases that ACLU and ACLU-GA can bring and the legal arguments that they can pursue.

26. For example, under Georgia and federal law, voters, civic organizations, and elections officials may have standing to challenge different provisions of law. *See, e.g., Republican Nat'l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771, 775-89 & n.15 (2025) (discussing organizational and associational standing, community-stakeholder standing, and the standing of

voters and elections officials under Georgia law); *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1350-52 (11th Cir. 2009) (discussing organizational, associational, and voter standing under federal law).

27. In addition to affirmative litigation, ACLU and ACLU-GA have been in discussions with potential clients regarding representation as defendants or fact witnesses. Due to the risk of liability under Section 21-2-18, ACLU and ACLU-GA have declined to move forward with this representation.

28. If not for Section 21-2-18, ACLU and ACLU-GA would pursue representing elections officials, poll workers, and other elections officials as clients, as part of ACLU and ACLU-GA's work related to expanding Georgians' voting rights.

**CLAIM I:
DECLARATORY JUDGMENT THAT O.G.C.A. § 21-2-18 WOULD BE
UNCONSTITUTIONAL AS APPLIED TO PRO BONO REPRESENTATION BY ACLU,
ACLU-GA, AND SIMILARLY-SITUATED ORGANIZATIONS**

29. Plaintiffs reallege and incorporate herein by reference the allegations in Paragraphs 1 through 28.

30. This Court has the authority "to declare rights and other legal relations of any interested party petitioning for such declaration," O.C.G.A. § 9-4-2(a), or to issue a declaratory judgment "in any civil case in which it appears to the court that the ends of justice require that the declaration should be made," *id.* § 9-4-2(b). "Further plenary relief, legal or equitable, including but not limited to . . . [an] injunction . . . may be sought in a petition seeking declaratory judgment" *Id.* § 9-4-3. This Court also has the authority to enjoin Defendant and its officers and agents from any act "which is illegal or contrary to equity and good conscience and for which no adequate remedy is provided at law." *Id.* § 9-5-1.

31. Section 21-2-18 prevents ACLU and ACLU-GA from providing pro bono representation to elections officials, poll workers, and other elections workers. This representation is core political speech protected by the Georgia Constitution. Georgia must show that, if it were applied to pro bono representation of elections workers, Section 21-2-18 furthers a compelling government interest and that it is narrowly tailored to further that interest. The State cannot make either showing.

32. ACLU and ACLU-GA seek a declaration that the application of Section 21-2-18 to their provision of *pro bono* legal services, as organizations that engage in litigation as an integral part of political speech, violates Article I, Section I, Paragraph 5 of the Georgia Constitution.

33. ACLU and ACLU-GA seek further plenary relief enjoining enforcement of Section 21-2-18 as to the provision of *pro bono* legal services by ACLU, ACLU-GA, and similarly-situated organizations, and their members, that engage in litigation as a form of political expression and association. *See In re Primus*, 436 U.S. at 439 (holding that states must respect the First Amendment rights of “nonprofit organizations, or their members, having characteristics like those of the NAACP or the ACLU” to engage in legal representation).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that the Court:

- A. Declare that the application of O.G.C.A. § 21-2-18 to the provision of pro bono legal services by ACLU, ACLU-GA, and similarly-situated organizations, and their members, that engage in litigation as a form of political expression would violate Article I, Section I, Paragraph 5 of the Georgia Constitution;
- B. Enjoin enforcement of O.G.C.A. § 21-2-18 as to the provision of pro bono legal services by such organizations or their members;

C. Grant any other relief the Court deems necessary or proper.

Respectfully submitted May 27, 2026,

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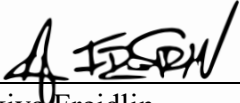
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* Motion for admission *pro hac vice*
forthcoming

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VERIFICATION (ACLU OF GEORGIA)

I, AKIVA FREIDLIN, an agent of and counsel for the AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF GEORGIA, verify that the statements contained in the foregoing Verified Complaint and concerning the ACLU of Georgia are true and correct.



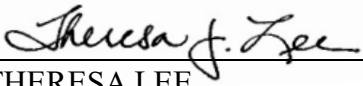
Akiva Freidlin

May 27, 2026

Date

VERIFICATION (ACLU)

I, Theresa J. Lee, an agent of and counsel for the AMERICAN CIVIL LIBERTIES UNION FOUNDATION, verify that the statements contained in the foregoing Verified Complaint and concerning the ACLU are true and correct.



THERESA LEE

May 27, 2026

Date

CERTIFICATE OF SERVICE

I hereby certify on May 27, 2026, I filed a copy of this document with the Court's electronic filing system and emailed it to counsel for the state at the email address listed below.

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