

1 Roy Herrera (No. 032901)
Daniel A. Arellano (No. 032304)
2 **HERRERA ARELLANO LLP**
530 East McDowell Road, Suite 107-150
3 Phoenix, Arizona 85004-1500
Telephone: (602) 567-4820
4 roy@ha-firm.com
daniel@ha-firm.com

5 Aria C. Branch*
6 Daniel J. Cohen*
Joel Ramirez*
7 **ELIAS LAW GROUP LLP**
10 G Street NE, Suite 600
8 Washington, D.C. 20002
Telephone: (202) 968-4490
9 Facsimile: (202) 968-4498
abranh@elias.law
10 dcohen@elias.law
jramirez@elias.law

11 * *Pro Hac Vice* Application
12 Forthcoming

13 *Attorneys for Plaintiffs*

14 UNITED STATES DISTRICT COURT
15 DISTRICT OF ARIZONA

17 Arizona Alliance for Retired Americans;
Voto Latino; Priorities USA,
18
19 Plaintiffs,

No.

20 v.

21 Katie Hobbs, in her official capacity as
Secretary of State for the State of
22 Arizona; Mark Brnovich, in his official
capacity as Attorney General for the State
23 of Arizona; Larry Noble, in his official
capacity as Apache County Recorder;
24 David Stephens, in his official capacity as
Cochise County Recorder; Patty Hansen,
25 in her official capacity as Coconino
County Recorder; Sadie Jo Bingham, in
her official capacity as Gila County
26 Recorder; Wendy John, in her official
capacity as Graham County Recorder;
27 Sharie Milheiro, in her official capacity
as Greenlee County Recorder; Richard
28

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 Garcia, in his official capacity as La Paz
2 County Recorder; Stephen Richer, in his
3 official capacity as Maricopa County
4 Recorder; Kristi Blair, in her official
5 capacity as Mohave County Recorder;
6 Michael Sample, in his official capacity
7 as Navajo County Recorder; Gabriella
8 Cázares-Kelly, in her official capacity as
9 Pima County Recorder; Dana Lewis, in
10 her official capacity as Pinal County
11 Recorder; Suzanne Sainz, in her official
12 capacity as Santa Cruz County Recorder;
13 Leslie Hoffman, in her official capacity
14 as Yavapai County Recorder; and Robyn
15 Pouquette, in her official capacity as
16 Yuma County Recorder;

Defendants.

17 Plaintiffs Arizona Alliance for Retired Americans, Voto Latino, and Priorities USA,
18 by and through their undersigned counsel, for their Complaint for Declaratory and
19 Injunctive Relief, allege as follows:

20 **NATURE OF THE CASE**

21 1. On June 6, 2022, Governor Ducey signed into law Senate Bill 1260 (“SB 1260”),
22 which radically alters Arizona law to impose severe restrictions on entirely lawful voters,
23 as well as organizations or individuals that would help them exercise their fundamental right
24 to vote. Plaintiffs challenge three interrelated parts of SB 1260 that will amend Title 16
25 (“Elections and Electors”) of the Arizona Revised Statutes, effective September 24, 2022:
26 A.R.S. § 16-1016(12) (the “Felony Provision”), A.R.S. § 16-165(A)(10) and (B) (the
27 “Cancellation Provision”), and A.R.S. § 16-544(P)–(R) (the “Removal Provision”)
28 (collectively, the “Challenged Provisions”).¹

¹ References to the Arizona Revised Statutes reflect the codification that will take effect upon Senate Bill 1260’s effective date on September 24, 2022.

1 2. The first Challenged Provision—the Felony Provision—threatens criminal
2 penalties against anyone who knowingly “provides a mechanism for voting” to a person
3 who is registered to vote in another state, regardless of whether that person now lives in
4 Arizona, is eligible to vote in Arizona, and intends to vote only in Arizona. A.R.S. § 16-
5 1016(12). The term “mechanism for voting” is not defined, but the statute expressly
6 emphasizes that it is broad enough to include the mere act of “forwarding an early ballot”
7 addressed to the voter. *Id.* Being registered to vote in more than one state or county is not
8 prohibited, and for good reason. People do not ordinarily think to affirmatively cancel their
9 voter registration when they move, and there often is no obvious or easy way to do so. Nor
10 is there any assurance that a jurisdiction will actually cancel a voter’s registration
11 immediately upon receiving a request.

12 3. The Felony Provision accordingly criminalizes vast swaths of constitutionally
13 protected activity, while simultaneously making it more difficult for entirely lawful Arizona
14 voters to cast a ballot. Certain groups of voters are likely to be more severely burdened,
15 including those who tend to be more residentially transient, such as younger voters, poorer
16 voters, and non-white voters, as well as older voters who move to Arizona to retire. The
17 Felony Provision will make it harder for these voters to exercise their fundamental right to
18 vote, while also threatening with criminal penalties those who would attempt to help them
19 exercise that right.

20 4. Consider, for example, groups like Plaintiffs that work to assist eligible Arizonans
21 in exercising their fundamental right to vote. If one of Plaintiffs’ employees, members, or
22 volunteers helps to register a voter in Arizona and that voter happens also to be registered
23 to vote in another state, then Plaintiffs’ employee, member, or volunteer could face criminal
24 penalties under the plain terms of the Felony Provision. Or consider an Arizona parent who
25 receives an early ballot in the mail for their child who just finished college out of state but
26 is eligible to vote in Arizona. That parent could face felony charges if they forward the
27 student’s early ballot to them if the student at some point registered to vote in their out-of-
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1 state college town—even if the student has no intention to, and never actually does, vote in
2 two places.

3 5. The Felony Provision requires Plaintiffs and anyone else conducting voter
4 registration or mobilization activities in Arizona to take an additional step of confirming
5 that the voter they are assisting either has never previously registered to vote anywhere, or
6 has affirmatively canceled any prior registrations before assisting that voter. Otherwise,
7 Plaintiffs risk felony liability for providing such assistance. This risk will severely chill
8 voter registration and mobilization efforts in Arizona, resulting in an undue burden on
9 groups and individuals engaged in these efforts and voters who benefit from them.

10 6. The second and third Challenged Provisions—the Cancellation and Removal
11 Provisions—force county recorders to cancel a voter’s registration and remove a voter from
12 the active early voting list if the voter is registered to vote in another Arizona county. The
13 Cancellation and Removal Provisions do not require county recorders to notify the voter or
14 ask for their consent before canceling their voter registration or removing them from the
15 active early voting list; in fact, they do not require county recorders to make *any* inquiry at
16 all of the voter, including to find out where the voter currently resides and intends to vote.
17 A.R.S. §§ 16-165(A)(10), 16-544(Q). The Removal Provision, moreover, will have a
18 significant impact on the right to vote because the overwhelming majority of Arizonans
19 vote early by mail.

20 7. The Cancellation and Removal Provisions thus place an undue burden of
21 affirmative cancellation on voters, particularly those who frequently move or change
22 residences, because voters must cancel their other voter registrations if they want to prevent
23 their current voter registration from being canceled or remain on the active early voting list.

24 8. The Cancellation and Removal Provisions also allow third parties to force county
25 recorders to cancel voter registrations and remove voters from the active early voting list
26 by allowing third parties to provide county recorders with “credible information that a
27 person has registered to vote in a different county.” *Id.* §§ 16-165(B), 16-544(R). The
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1 Cancellation and Removal Provisions do not define the term “credible information” or
2 require county recorders to investigate such information. As such, they would appear to
3 allow any person or organization to petition county recorders to cancel voter registrations
4 or remove people from the active early voting list *en masse* by providing “credible
5 information” that those voters have voter registrations in two counties—notwithstanding
6 that it is entirely lawful to be registered to vote in more than one location or that voters with
7 multiple registrations may be intending to legally vote using only one of those registrations.
8 The Cancellation and Removal Provisions thus provide a method for voter suppressive
9 groups to target historically disenfranchised voters and have them purged from the
10 registration rolls and the early active voting list without any legal basis.

11 9. The Removal Provision separately requires anyone who receives an early ballot
12 belonging to a former resident to write “Not at this address” on the ballot and place the
13 ballot in the mail. *Id.* § 16-544(P). Assuming that the mail is successfully returned to the
14 county recorder as undeliverable, the county recorder, upon receipt, would be required
15 either to “contact the voter at the voter’s new residence address in order to update that
16 voter’s address or to move the voter to inactive status,” which means the voter would be
17 removed from the active early voting list. *Id.* § 16-544(E). These requirements essentially
18 force Arizona residents to provide leads to the county recorder for removing others from
19 the active early voting list, without articulating any legal basis for doing so.

20 10. SB 1260 has no rational connection to any legitimate government purpose. It will
21 not improve election integrity or prevent election fraud. Instead, it will severely chill voter
22 registration and voter engagement efforts and disenfranchise eligible Arizona voters.

23 11. Each of the Challenged Provisions unduly burdens the right to vote in violation
24 of the First and Fourteenth Amendments. They also infringe upon the right to due process
25 under the Fourteenth Amendment.

26 12. The Felony Provision also separately violates the First and Fourteenth
27 Amendments because it is unconstitutionally vague and overbroad.

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1 13. The Cancellation and Removal Provisions also violate the Equal Protection
2 Clause of the Fourteenth Amendment by disproportionately affecting voters who are more
3 likely to move and have multiple voter registrations, such as young voters, college students,
4 and other transient voters who are more likely to be poorer voters and non-white voters, and
5 by allowing third parties to engage in targeted voter suppression of those groups.

6 14. SB 1260 is scheduled to go into effect on September 24, 2022. This Court should
7 declare it invalid and enjoin its operation. No portion of SB 1260 is salvageable; each of its
8 provisions is unconstitutional. *See State ex rel Napolitano v. Brown*, 194 Ariz. 340, 344
9 (1999) (“If the unconstitutional portions of the amendments are not severable from the
10 remainder of the law, we must strike down the legislation as a whole.”).

11 JURISDICTION AND VENUE

12 15. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988 to redress the
13 deprivation under color of state law of rights secured by the U.S. Constitution.

14 16. This Court has original jurisdiction over the subject matter of this action under
15 28 U.S.C. §§ 1331 and 1343, because the matters in controversy arise under the Constitution
16 and laws of the United States.

17 17. This Court has personal jurisdiction over Defendants, who are domiciled in the
18 State of Arizona and are sued only in their official capacities as Arizona’s Secretary of
19 State, Arizona’s Attorney General, and each Arizona County Recorder.

20 18. Venue is proper in this district and division under 28 U.S.C. § 1391(b)(1) and
21 LRCiv 5.1(a) because Defendants reside in Arizona. Venue is proper under 28 U.S.C.
22 § 1391(b)(2) because a substantial part of the events that give rise to Plaintiffs’ claims
23 occurred in this judicial district and Defendants conduct business in this district in their
24 official capacities.

25 19. This Court has the authority to enter a declaratory judgment and to provide
26 injunctive relief under Rules 57 and 65 of the Federal Rules of Civil Procedure and pursuant
27 to 28 U.S.C. §§ 2201 and 2202.
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PARTIES

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2 20. Plaintiff Arizona Alliance for Retired Americans, Inc. (the “Arizona Alliance”)
3 is a nonprofit corporation organized under section 501(c)(4) of the Internal Revenue Code.
4 The Arizona Alliance’s membership includes approximately 50,000 retirees from public
5 and private sector unions, community organizations, and individual activists in every county
6 in Arizona. The Arizona Alliance is a chartered affiliate of the Alliance for Retired
7 Americans. Its mission is to ensure social and economic justice and full civil rights that
8 retirees have earned after a lifetime of work. The Arizona Alliance accomplishes this
9 mission by actively pursuing and promoting legislation and public policies regarding critical
10 issues facing older Americans and working families. The Arizona Alliance also
11 accomplishes its mission by ensuring that its members are able to register to vote and
12 meaningfully participate in Arizona’s elections through voter registration activities such as
13 encouraging voter registration at member meetings and phone banking drives.

14 21. The Challenged Provisions frustrate the Arizona Alliance’s mission because they
15 make it more difficult for its members to register to vote and to receive and cast their ballots,
16 thus making it more difficult for the Arizona Alliance and its members to associate to
17 effectively further their shared political purposes. Because of SB 1260, the Arizona Alliance
18 will need to divert resources from other mission-critical work to spending time educating
19 its members and other voters about SB 1260 and how they can remain registered to vote
20 and remain on the correct active early voting list despite the Removal and Cancellation
21 Provisions. The Arizona Alliance will also need to educate its members and other voters on
22 the Removal Provision’s requirement to affirmatively mark and return early ballots intended
23 for previous residents.

24 22. The Felony Provision will stifle the Arizona Alliance’s ability to engage with its
25 members and constituents. Until a voter’s prior registration is cancelled—a process that
26 could take months—the Arizona Alliance would need to refrain from registering that voter
27 or otherwise helping them to vote in order to ensure that its volunteers and employees would
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1 not be subject to criminal liability. Even helping a voter update their address for their voter
2 registration could risk felony prosecution under the Felony Provision if that voter remains
3 registered in another state. The Felony Provision will make it more difficult for the Arizona
4 Alliance to recruit employees and volunteers to carry out its mission because of the risk of
5 criminal liability for engaging in its mission-achieving work. If the Arizona Alliance
6 proceeds with voter engagement activities despite the risks of doing so under SB 1260, then
7 its employees and volunteers will be required to divert resources from their typical activities
8 to focus on identifying members and constituents who are registered to vote in more than
9 one state or Arizona county. The Arizona Alliance will need to help those voters cancel
10 their non-active registrations to ensure that their active registrations are not cancelled or
11 they are not removed from the early active voting list. The Felony Provision will make it
12 more costly and time-consuming for the Arizona Alliance to achieve its mission.

13 23. The Arizona Alliance also brings this action on behalf of its members. Most of
14 the Arizona Alliance's members are between 55 and 90 years of age and many have
15 disabilities. Many of its members vote early by mail in large numbers, and many are
16 members of the active early voting list. The Arizona Alliance also has many members that
17 have moved from other states or counties where they were previously registered to vote,
18 and who have not affirmatively canceled their previous voter registrations. The Arizona
19 Alliance's members are at risk of having their registrations cancelled and being removed
20 from the correct active early voting list as a result of SB 1260. They are also at risk of being
21 found guilty of a felony for engaging in voter registration and mobilization activities as
22 members of the Arizona Alliance.

23 24. Plaintiff Voto Latino is a nonprofit corporation organized under section
24 501(c)(4) of the Internal Revenue Code. Voto Latino is dedicated to growing political
25 engagement in historically underrepresented communities, specifically young and Latinx
26 voters. Voto Latino has made, and will continue to make, expenditures to educate, mobilize,
27 and turn out voters in Arizona. Voto Latino employees and volunteers engage in voter
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1 registration drives and conduct email and social media advertising campaigns to remind
2 voters—particularly Voto Latino’s core constituency, young and Latinx voters—to vote and
3 to keep their voter registrations up to date. Voto Latino also conducts get-out-the-vote
4 efforts, including text banking and advertising campaigns, to encourage voters to vote,
5 remind them to update their voter registrations, and inform them about available means of
6 voting, such as early in-person voting or voting by mail. Voto Latino frequently engages
7 with college students and new residents of Arizona during its voter education and
8 mobilization efforts. Because of SB 1260, Voto Latino will need to divert resources from
9 other mission-critical work to spending time educating its constituents about SB 1260, the
10 requirement to affirmatively mark and return early ballots intended for previous residents,
11 and the need to check whether a voter has multiple voter registrations or active early voting
12 list memberships.

13 25. The Felony Provision will stifle Voto Latino’s ability to engage with its
14 constituents. The Felony Provision will make it more difficult for Voto Latino to recruit
15 employees and volunteers to carry out its mission because of the risk of criminal liability
16 for providing assistance with voting. If Voto Latino proceeds with voter engagement
17 activities despite the risks of doing so under SB 1260, then its employees and volunteers
18 will be required to divert resources from their typical activities to focus on identifying
19 members and constituents who are registered to vote in more than one state or Arizona
20 county. Voto Latino anticipates that its constituents will be targeted by coordinated efforts
21 by third parties to purge Latinx voters and students from Arizona’s voter registration rolls
22 and early voting lists, which SB 1260 permits with no notice to the affected voter. To
23 combat this activity, Voto Latino will need to help its constituents cancel their non-active
24 registrations. The Felony Provision will make it more costly and time-consuming for Voto
25 Latino to achieve its mission.

26 26. Plaintiff Priorities USA (“Priorities”) is a nonprofit corporation organized under
27 section 501(c)(4) of the Internal Revenue Code. Priorities is a vote-centric progressive
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1 advocacy and service organization. Its mission is to build a permanent infrastructure to
2 engage Americans by persuading, registering, and mobilizing citizens around issues and
3 elections that affect their lives. In furtherance of this purpose, Priorities works to help
4 educate, mobilize, register, and turn out voters across the country. Priorities has made and
5 will continue to make contributions and expenditures in the millions of dollars to educate,
6 register, mobilize, and turn out voters in upcoming state and federal elections around the
7 country. Priorities has committed to invest \$8.4 million in voter engagement efforts in
8 Arizona for the 2022 election cycle. In anticipation of the upcoming Arizona state and
9 federal elections, Priorities has already spent over \$4.8 million on advertising and voter
10 education, including efforts targeted at voters who have recently moved.

11 27. SB 1260 directly harms Priorities by frustrating its mission and its efforts to
12 educate, register, and turn out Arizona voters. Priorities is aware of SB 1260 and is planning
13 to expend and divert additional funds and resources in voter education efforts, as well as
14 registration, mobilization, and turnout activities, particularly through advertisements, in
15 Arizona at the expense of its other efforts in order to combat the effects of SB 1260 on
16 individuals who have multiple voter registrations or who assist individuals who have
17 multiple voter registrations that have not been affirmatively cancelled. Priorities is
18 concerned that many of the Arizona voter engagement organizations it funds will be
19 deterred from engaging in robust operations because of the Felony Provision, making it
20 more difficult for Priorities to achieve its mission.

21 28. Defendant Katie Hobbs is the Secretary of State for the State of Arizona and is
22 named as a Defendant in her official capacity. In her official capacity, she is the chief state
23 election officer and is responsible for overseeing the voting process in Arizona and is
24 empowered with broad authority to carry out that responsibility. She is also responsible for
25 proscribing rules for, among other things, early voting, which are set forth in the Arizona
26 Election Procedures Manual. A.R.S. § 16-452.

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1 29. Defendant Mark Brnovich is the Attorney General for the State of Arizona and
2 is named as a Defendant in his official capacity. In his official capacity, he serves as the
3 Chief Legal Officer of the State of Arizona and is responsible for prosecuting offenses under
4 Title 16 (“Elections and Electors”) of the Arizona Revised Statutes, which includes all of
5 the provisions of SB 1260. A.R.S. § 16-1021. He is also responsible for enforcing criminal
6 laws, such as the Felony Provision, by presenting evidence to the state grand jury and
7 prosecuting all indictments. *Id.* §§ 21-424; 21-427(B).

8 30. Defendant Larry Noble is the Apache County Recorder and is named as a
9 Defendant in his official capacity only. As County Recorder, he is responsible for
10 processing and maintaining voter registration records, including cancelling voter
11 registrations and maintaining the active early voting list. *Id.* §§ 16-165, 16-544.

12 31. Defendant David Stevens is the Cochise County Recorder and is named as a
13 Defendant in his official capacity only. As County Recorder, he is responsible for
14 processing and maintaining voter registration records, including cancelling voter
15 registrations and maintaining the active early voting list. *Id.*

16 32. Defendant Patty Hansen is the Coconino County Recorder and is named as a
17 Defendant in her official capacity only. As County Recorder, she is responsible for
18 processing and maintaining voter registration records, including cancelling voter
19 registrations and maintaining the active early voting list. *Id.*

20 33. Defendant Sadie Jo Bingham is the Gila County Recorder and is named as a
21 Defendant in her official capacity only. As County Recorder, she is responsible for
22 processing and maintaining voter registration records, including cancelling voter
23 registrations and maintaining the active early voting list. *Id.*

24 34. Defendant Wendy John is the Graham County Recorder and is named as a
25 Defendant in her official capacity only. As County Recorder, she is responsible for
26 processing and maintaining voter registration records, including cancelling voter
27 registrations and maintaining the active early voting list. *Id.*

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1 35. Defendant Sharie Milheiro is the Greenlee County Recorder and is named as a
2 Defendant in her official capacity only. As County Recorder, she is responsible for
3 processing and maintaining voter registration records, including cancelling voter
4 registrations and maintaining the active early voting list. *Id.*

5 36. Defendant Richard Garcia is the La Paz County Recorder and is named as a
6 Defendant in his official capacity only. As County Recorder, he is responsible for
7 processing and maintaining voter registration records, including cancelling voter
8 registrations and maintaining the active early voting list. *Id.*

9 37. Defendant Stephen Richer is the Maricopa County Recorder and is named as a
10 Defendant in his official capacity only. As County Recorder, he is responsible for
11 processing and maintaining voter registration records, including cancelling voter
12 registrations and maintaining the active early voting list. *Id.*

13 38. Defendant Kristi Blair is the Mohave County Recorder and is named as a
14 Defendant in her official capacity only. As County Recorder, she is responsible for
15 processing and maintaining voter registration records, including cancelling voter
16 registrations and maintaining the active early voting list. *Id.*

17 39. Defendant Michael Sample is the Navajo County Recorder and is named as a
18 Defendant in his official capacity only. As County Recorder, he is responsible for
19 processing and maintaining voter registration records, including cancelling voter
20 registrations and maintaining the active early voting list. *Id.*

21 40. Defendant Gabriella Cázares-Kelly is the Pima County Recorder and is named
22 as a Defendant in her official capacity only. As County Recorder, she is responsible for
23 processing and maintaining voter registration records, including cancelling voter
24 registrations and maintaining the active early voting list. *Id.*

25 41. Defendant Dana Lewis is the Pinal County Recorder and is named as a Defendant
26 in her official capacity only. As County Recorder, she is responsible for processing and
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1 maintaining voter registration records, including cancelling voter registrations and
2 maintaining the active early voting list. *Id.*

3 42. Defendant Suzanne Sainz is the Santa Cruz County Recorder and is named as a
4 Defendant in her official capacity only. As County Recorder, she is responsible for
5 processing and maintaining voter registration records, including cancelling voter
6 registrations and maintaining the active early voting list. *Id.*

7 43. Defendant Leslie Hoffman is the Yavapai County Recorder and is named as a
8 Defendant in her official capacity only. As County Recorder, she is responsible for
9 processing and maintaining voter registration records, including cancelling voter
10 registrations and maintaining the active early voting list. *Id.*

11 44. Defendant Robyn Pouquette is the Yuma County Recorder and is named as a
12 Defendant in her official capacity only. As County Recorder, she is responsible for
13 processing and maintaining voter registration records, including cancelling voter
14 registrations and maintaining the active early voting list. *Id.*

15 **STATEMENT OF FACTS AND LAW**

16 45. In 2021, Arizona was among the fastest-growing states in population growth,
17 fueled by domestic migration: over 93,000 people relocated to Arizona from elsewhere
18 within the United States. From July 2020 to July 2021, Maricopa County was the fastest-
19 growing county in the country, with a population growth of over 58,000 people. Between
20 2010 and 2019, the population of individuals who are 65 years of age and older in Arizona
21 increased by nearly 50%.

22 46. Early voting is very popular among Arizona voters. Because Arizona has no-
23 excuse early voting, any registered voter, including new residents of Arizona, can vote early
24 in any election. A.R.S. § 16-541. In addition, any Arizona voter may request to join the
25 active early voting list. All voters who are added to the active early voting list will receive
26 an early ballot by mail “automatically for any election” for which they are eligible to vote.
27 *Id.* § 16-544(A), (H).

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1 47. Over the past decade, early voting in Arizona has grown at a consistent and rapid
2 rate. In the 2008 general election, for example, just over a million Arizona voters voted
3 early. By the 2016 general election, that number had doubled to over two million voters. In
4 2018, a lower-turnout midterm election, around 1.9 million voters voted early. In 2020,
5 around 2.4 million voters voted early. In the most recent election, over 1.2 million voters
6 voted early in the 2022 gubernatorial primary.

7 48. SB 1260 targets voters who are registered to vote in more than one place even
8 though having multiple registrations is legal and common, particularly among voters who
9 have moved their residence. SB 1260 threatens these voters with severe harm—including
10 disenfranchisement—because it requires county recorders to cancel a voter’s registration
11 and remove them from Arizona’s active early voting list solely because they are registered
12 to vote in another place and have not affirmatively cancelled their registration. There is no
13 requirement that the county recorder give the voter *any* notice of the cancellation, or an
14 opportunity to avoid or contest it, much less that the recorder do so in accordance with
15 federal law. As a result, many voters will suffer disenfranchisement because they will think
16 that they are registered to vote and expect that they will be sent an early ballot by mail, only
17 to learn that their county recorder made changes to their registration status *after* the deadline
18 to register had already passed.

19 49. SB 1260 will have severe detrimental effects on Plaintiffs’ ability to effectively
20 engage with their members and constituents and assist them in exercising their right to vote.
21 Each Challenged Provision of SB 1260 is discussed, in turn, below.

22 **A. Felony Provision (A.R.S. § 16-1016(12))**

23 50. SB 1260 amends A.R.S. § 16-1016 to add subsection (12) (the “Felony
24 Provision”), which states that a person is guilty of a class 5 felony who:

25 Knowingly provides a mechanism for voting to another person
26 who is registered in another state, including by forwarding an
27 early ballot addressed to the other person.
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1 51. A class 5 felony conviction in Arizona carries a penalty ranging from six months
2 to two years and six months' imprisonment. A.R.S. § 13-702(D). A conviction for a felony
3 suspends the right to vote in Arizona. *Id.* § 13-904.

4 52. The Felony Provision does not define the operative phrase—providing a
5 “mechanism for voting”—except to specify that the phrase should be interpreted broadly
6 enough to include activity as diminutive as “forwarding an early ballot addressed to another
7 person.” *Id.* § 16-1016. The possibilities of prohibited activities are thus nearly limitless,
8 ranging from registering a person to vote, to helping a person update their address for
9 purposes of voting, to merely providing them with information on how to sign up for the
10 active early voting list or cast their ballot. In fact, even *helping a person cancel their other*
11 *voter registrations* could be considered providing them with a “mechanism for voting”
12 under SB 1260, meaning that not only would Plaintiffs be prohibited from helping voters
13 register to vote because of SB 1260, but they would also be prohibited from helping them
14 to remain registered to vote in compliance with SB 1260 by cancelling other registrations.

15 53. The Felony Provision also does not describe the “knowingly” *mens rea*
16 requirement in any detail. From the plain text, a person could be guilty of a class 5 felony
17 if they “[k]nowingly” “provide[] a mechanism for voting” regardless of whether they know
18 that the specific person they are helping is registered in another state, and regardless of
19 whether the person actually intends to vote in two states.

20 54. Though voting in more than one state is illegal, it is perfectly legal to be
21 registered to vote in more than one state or in more than one county in Arizona. In fact, it
22 is quite common.

23 55. The Felony Provision will severely chill Plaintiffs' voter registration and
24 mobilization efforts in Arizona by making it a crime to “knowingly” provide “a mechanism
25 for voting” to a voter who is registered to vote in another state. The ambiguity in the plain
26 language of the Felony Provision only adds to the burden on Plaintiffs and makes it more
27 likely that they will be deterred from engaging in voter registration and mobilization efforts.
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1 It is unclear, for example, which of Plaintiffs' voter registration or mobilization activities
2 would constitute "a mechanism for voting."

3 56. A large part of Plaintiffs' voter registration and mobilization activities includes
4 registering and engaging with voters who have moved to Arizona from other states, making
5 it inevitable that some number among them have prior voter registrations in other states or
6 counties. If Plaintiffs' employees or volunteers register or otherwise assist an individual
7 who has not taken the affirmative step of successfully canceling their previous voter
8 registration(s), they could face criminal penalties under the plain language of the Felony
9 Provision.

10 57. The Felony Provision—especially its vagueness and overbreadth—imposes a
11 severe burden on Plaintiffs' voter registration and mobilization efforts in Arizona because
12 it apparently imposes felony charges on volunteers and staff for simply helping to register
13 or mobilize voters who may not have affirmatively cancelled other voting registrations—in
14 other words, for being civically engaged or doing their jobs. And it requires organizations
15 such as Plaintiffs to either confirm that each person they reach out to is not registered to
16 vote in any other states, or to ensure that each person has successfully canceled any
17 registration in another state before providing any further assistance. As a result, Plaintiffs'
18 voter registration and mobilization activities will be severely hindered, and new Arizona
19 residents will have less support in registering to vote and voting.

20 **B. Cancellation Provision (A.R.S. § 16-165(A)(10), (B)) and Removal**
21 **Provision (A.R.S. § 16-544(P)–(R))**

22 58. Through the Cancellation and Removal Provisions, SB 1260 imposes severe
23 burdens on voters who move within the state.

24 59. SB 1260 amends A.R.S. § 16-165 to add subsections (A)(10) and (B) (the
25 "Cancellation Provision"), which state that a county recorder "shall" cancel a registration
26 in the following two circumstances:

- 27 1. When the county recorder receives confirmation from
28 another county recorder that the person registered has registered

1 to vote in that other county.

2 2. If the county recorder receives credible information that a
3 person has registered to vote in a different county, the county
4 recorder shall confirm the person's voter registration with that
5 other county and, on confirmation, shall cancel the person's
6 registration pursuant to subsection A, paragraph 10 of this
7 section.

8 60. SB 1260 also amends A.R.S. § 16-544 to add subsections (P), (Q), and (R) (the
9 "Removal Provision"), which state:

10 P. A person who receives an early ballot at an address at which
11 another person formerly resided, without voting the ballot or
12 signing the envelope, shall write "Not at this address" on the
13 envelope and place the mail piece in a United States Postal
14 Service collection box or other mail receptacle. On receipt the
15 county recorder or other officer in charge of elections shall
16 proceed in the manner prescribed in subsection E of this section.

17 Q. When the county recorder receives confirmation from
18 another county that a person registered has registered to vote in
19 that other county, the county recorder shall remove that person
20 from the active early voting list.

21 R. If the county recorder receives credible information that a
22 person has registered to vote in a different county, the county
23 recorder shall confirm the person's voter registration with that
24 other county and, on confirmation, shall remove that person
25 from the county's active early voting list pursuant to subsection
26 Q of this section.

27 61. The Cancellation and Removal Provisions require a county recorder to cancel an
28 otherwise valid and active voter registration or remove an otherwise eligible voter from the
active early voting list merely because "the person registered has registered to vote in that
other county." A.R.S. § 16-165(A)(10); *Id.* § 16-544(Q). SB 1260 contains no further
explanation of *which* county recorder "shall cancel" the person's registration or *which*
county recorder "shall remove" the person from the active early voting list. *Id.* § 16-
165(A)(10), (B); *Id.* § 16-544(Q), (R). Even if a person now resides in, is eligible to vote
in, and intends to vote in a particular county, the Cancellation and Removal Provisions

1 appear to require the county recorder *of that county* to cancel the person’s voter registration
2 or remove that person from the active early voting list if the person is registered in another
3 county.

4 62. The Cancellation and Removal Provisions compel county recorders to cancel
5 registrations and remove voters from the active early voting list without any requirement to
6 provide notice to the affected voters and regardless of whether the affected voters consent
7 to such action. *Id.* § 16-165(A)(10), (B); *Id.* § 16-544(Q), (R). Similarly, there is no
8 requirement for the county recorder to contact the voter to determine which voter
9 registration should remain active. Without any notice, individual Arizona voters will have
10 no knowledge as to whether any of their voter registrations are active, or which ones remain
11 active, or whether they remain on any active early voting list.

12 63. The Cancellation and Removal Provisions do not contain any mechanism for the
13 county recorders to coordinate their cancellations or removals, resulting in a scenario for
14 voter disenfranchisement in which two county recorders might *each* cancel a voter’s
15 registration (or remove the voter from the active early voting list) in their respective
16 counties upon receiving confirmation from each other that the voter has registered in both
17 counties. This double cancellation could result in a person being suddenly stripped of any
18 active voter registration and being removed from all active early voting lists, without any
19 notice whatsoever. And even if a voter’s registrations are not all cancelled, nothing in the
20 Cancellation Provision prevents the cancellation of the voter’s registration where the voter
21 currently resides, is eligible and intends to vote—a scenario that could also lead to
22 disenfranchisement without notice. The Removal Provision similarly fails to protect against
23 this situation; a voter could be removed, without notice, from the active early voting list in
24 the county in which they intend to vote.

25 64. The Cancellation and Removal Provisions also allow third parties to provide
26 county recorders with “credible information that a person has registered to vote in a
27 different county.” *Id.* §§ 16-165(B), 16-544(R). Upon receiving such information, a county
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1 recorder is required—again, regardless of whether the affected voter consents or is even
2 notified—to “confirm the person’s voter registration with that other county” and, upon
3 confirmation, to cancel the person’s registration or remove the person from the active early
4 voting list. *Id.* § 16-165(B); *id.* § 16-544(Q).

5 65. SB 1260 contains no explanation of what constitutes “credible information,” who
6 may provide it, or whether a county recorder has any duty to investigate.

7 66. The Cancellation and Removal Provisions will enable targeted voter suppression
8 by allowing third parties to provide “credible information” about certain populations who
9 may have moved. For example, a third party could contact the county recorder for the
10 county where each university in Arizona is located and notify them of any students who
11 have “registered to vote in a different county.” *Id.* § 16-165(B); *see also id.* § 16-544(Q).
12 Under the Cancellation and Removal Provisions, the county recorder would then be
13 required to confirm with another county recorder whether these students have registered in
14 a different county and, upon confirmation, cancel the students’ voter registrations and
15 remove the students from the active early voting list. There is no requirement to notify or
16 receive permission from the students prior to canceling their voter registrations or removing
17 them from the active early voting list.

18 67. The Removal Provision separately requires a person who receives an early ballot
19 belonging to a former resident to write “Not at this address” on the ballot and place the
20 ballot in the mail. *Id.* § 16-544(P). Assuming that the mail is successfully returned to the
21 county recorder as undeliverable, the county recorder, upon receipt, would be required
22 either to “contact the voter at the voter’s new residence address in order to update that
23 voter’s address or to move the voter to inactive status,” meaning the voter would be removed
24 from the active early voting list. *Id.* § 16-544(E).

25 68. Though SB 1260 does not provide for specific penalties for the failure to comply
26 with A.R.S. § 16-544(P), the mandatory language of the provision would create an
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1 affirmative legal duty for Arizona residents to monitor their mail and mark and return any
2 early ballots meant for former residents.

3 69. In other words, an Arizona resident who receives an early ballot meant for a
4 former resident and who simply ignores the early ballot (without marking it or placing it
5 back in the mail) would be in violation of Arizona law under subsection (P). Subsection (P)
6 effectively conscripts Arizona residents into helping the state purge their neighbors from
7 the voter rolls.

8 **C. Severability**

9 70. Given that multiple interrelated parts of SB 1260 would violate federal law and
10 the U.S. Constitution in a myriad of ways, no single portion of SB 1260 is salvageable and
11 each of its provisions must be struck down to preserve the voting rights of Arizona voters.
12 *See Brown*, 194 Ariz. at 344 (holding that portions of a statute are severable only if “the
13 valid parts are effective and enforceable standing alone and independent of those portions
14 declared unconstitutional and if the valid and invalid portions are not so intimately
15 connected as to raise the presumption the legislature would not have enacted one without
16 the other, and the invalid portion was not the inducement of the act” (cleaned up)).

17 **CLAIMS FOR RELIEF**

18 **COUNT I**

19 **Free Speech and Association**

20 **U.S. Const. amends. I, XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202** 21 **(Felony Provision is Unconstitutionally Vague and Overbroad)**

22 71. Plaintiffs incorporate by reference the allegations in Paragraphs 1–70 as though
23 fully set forth herein.

24 72. The Felony Provision is unconstitutionally overbroad and vague under the First
25 and Fourteenth Amendments. It does not define its operative phrase—providing a
26 “mechanism for voting”—except to specify that the phrase should be interpreted broadly
27 enough to include activity as diminutive as “forwarding an early ballot addressed to another
28 person.” The possibilities of prohibited activities are thus nearly limitless, ranging from

1 registering a person to vote, to helping a person update their address for purposes of voting
2 or registering to vote, to merely providing them with information on how to sign up for the
3 active early voting list or cast their ballot.

4 73. The Felony Provision also does not describe the “knowingly” *mens rea*
5 requirement in any detail. From the plain text, a person could be guilty of a class 5 felony
6 if they “[k]nowingly” “provide[] a mechanism for voting,” regardless of whether they know
7 that the person they are helping is registered in another state, and regardless of whether the
8 person actually intends to vote in two states.

9 74. A law is unconstitutionally vague when it “fails to provide a person of ordinary
10 intelligence fair notice of what is prohibited, or is so standardless that it authorizes or
11 encourages seriously discriminatory enforcement.” *Butcher v. Knudsen*, 38 F.4th 1163, 1169
12 (9th Cir. 2022) (quotation marks omitted). Vague statutes are especially egregious when
13 they “abut upon sensitive areas of basic First Amendment freedoms.” *Baggett v. Bullitt*, 377
14 U.S. 360, 372 (1964).

15 75. The Felony Provision lacks clarity about what activities are prohibited or what
16 activities could be deemed to provide a “mechanism for voting.” Nor does it explain clearly
17 what is meant by “knowingly provides a mechanism for voting.” Thus, it fails to provide
18 “fair notice of what is prohibited” and is “so standardless that it authorizes or encourages
19 seriously discriminatory enforcement.” *Butcher*, 38 F.4th at 1169 (quotation omitted).

20 76. Because Plaintiffs do not know which activities are permitted or prohibited under
21 the Felony Provision, and because they do not know what level of knowledge is required to
22 constitute a violation, their voter registration efforts and other voter engagement efforts will
23 be hindered. *See, e.g., League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 720 (M.D.
24 Tenn. 2019) (noting that even the threat of civil penalties “is likely to have a chilling effect
25 on the entirety of [a voter registration] drive, including its communicative aspects”). These
26 activities are core political speech. *Cf. Meyer v. Grant*, 486 U.S. 414, 421–22 (1988)
27 (describing circulating a petition as “the type of interactive communication concerning
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1 political change that is appropriately described as ‘core political speech’” and is protected
2 by the First Amendment).

3 77. A law is unconstitutionally overbroad when it makes conduct punishable that
4 under some circumstances is constitutionally protected activity. “[T]he overbreadth
5 doctrine permits the facial invalidation of laws that inhibit the exercise of First Amendment
6 rights if the impermissible applications of the law are substantial when ‘judged in relation
7 to the statute’s plainly legitimate sweep.’” *City of Chicago v. Morales*, 527 U.S. 41, 52
8 (1999) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 612–615 (1973)).

9 78. Plaintiffs’ efforts to help voters register and cast their ballots, as well as the
10 accompanying conversations and interactions between Plaintiffs’ representatives or
11 volunteers and voters surrounding voting, are core political speech. *Cf. Meyer*, 486 U.S. at
12 421–22.

13 79. The Felony Provision is thus unconstitutionally vague and overbroad as it
14 criminalizes any activity that provides a “mechanism for voting,” without limitation,
15 chilling Plaintiffs’ efforts to register and mobilize voters and ensure that their voter
16 registration information is up to date.

17 80. The Felony Provision is therefore unconstitutional under the First and Fourteenth
18 Amendments to the U.S. Constitution.

19 **COUNT II**

20 **Procedural Due Process**

21 **U.S. Const. amend. XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202**

22 **(Felony Provision)**

23 81. Plaintiffs incorporate by reference the allegations in Paragraphs 1–80 as though
24 fully set forth herein.

25 82. “It is a basic principle of due process that an enactment is void for vagueness if
26 its prohibitions are not clearly defined.” *Grayned v. City of Rockford*, 408 U.S. 104, 108
27 (1972). The Supreme Court has long recognized that laws must give “the person of ordinary
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1 intelligence a reasonable opportunity to know what is prohibited, so that he may act
2 accordingly” and “must provide explicit standards for those who apply them.” *Id.*

3 83. To determine whether a plaintiff has been denied procedural due process in
4 violation of the Due Process Clause of the Fourteenth Amendment, a court first asks
5 whether a constitutionally protected liberty interest is at stake. If so, the court then
6 determines whether the procedural protections provided are sufficient by examining,
7 “[f]irst, the private interest that will be affected by the official action; second, the risk of an
8 erroneous deprivation of such interest through the procedures used, and the probable value,
9 if any, of additional or substitute procedural safeguards; and finally, the Government’s
10 interest, including the function involved and the fiscal and administrative burdens that the
11 additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424
12 U.S. 319, 335 (1976).

13 84. Plaintiffs and other Arizonans have liberty interests in not facing criminal
14 penalties, including imprisonment, and in being able to exercise the right to vote. *See Hamdi*
15 *v. Rumsfeld*, 542 U.S. 507, 529 (2004) (noting that “the most elemental of liberty interests”
16 is “the interest in being free from physical detention by one’s own government”); *Raetzl*
17 *v. Parks/Bellefont Absentee Election Bd.*, 762 F. Supp. 1354, 1357 (D. Ariz. 1990)
18 (“Because voting is a fundamental right, the right to vote is a ‘liberty’ interest which may
19 not be confiscated without due process.”).

20 85. By changing the law to make it a felony for anyone to knowingly provide voting
21 assistance to eligible Arizona voters who have voter registrations in other states that have
22 not been affirmatively cancelled, Defendants have deprived eligible Arizona voters, without
23 due process, of their liberty interests in remaining free from prison and retaining their ability
24 to vote.

25 86. Absent relief, Plaintiffs, along with the Arizona Alliance’s members, will be
26 denied due process.

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COUNT III

Undue Burden on the Right to Vote

**U.S. Const. amends. I, XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202
(Felony Provision)**

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4 87. Plaintiffs incorporate by reference the allegations in Paragraphs 1–86 as though
5 fully set forth herein.

6 88. The Felony Provision will chill voter registration and mobilization efforts in
7 Arizona because it makes it more costly and risky for organizations and individuals to
8 undertake such activities. Some organizations may choose to cease such efforts altogether
9 because of the risk of criminal penalties associated with providing assistance to a voter who
10 registered to vote in another state and has not cancelled that registration.

11 89. The Felony Provision severely burdens the right to vote because the numerous
12 voters who benefit from third party registration and mobilization efforts will have no
13 opportunity or less opportunity to take advantage of such efforts. In addition, the Felony
14 Provision burdens voters who wish to obtain assistance from third-party organizations
15 engaged in registration and mobilization efforts because it requires voters to affirmatively
16 and successfully cancel all other voter registrations before receiving assistance from any
17 third party in either registering to vote, updating their voter registration information, or
18 casting their ballot.

19 90. In the Ninth Circuit, a court considering a challenge to a state election law must
20 carefully weigh “the character and magnitude of the asserted injury to the rights protected
21 by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the
22 precise interests put forward by the State as justifications for the burden imposed by its rule,
23 taking into consideration the extent to which those interests make it necessary to burden the
24 plaintiff’s rights.” *Ariz. Democratic Party v. Hobbs*, 18 F.4th 1179, 1187 (9th Cir. 2021)
25 (cleaned up).
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1 91. This balancing test uses a flexible sliding scale, where the rigorousness of
2 scrutiny depends upon the extent to which the challenged law burdens voting rights. A law
3 that imposes a “severe” burden is met with strict scrutiny. *Id.*

4 92. The Felony Provision will severely chill voter registration and mobilization
5 activities in Arizona and consequently reduce Arizonans’ ability to receive assistance in
6 registering to vote, updating their voter registration information, or casting their ballot.
7 Meanwhile, the Felony Provision is not necessary or justified by any legitimate state
8 interest. A person’s voter registration in another state is not related to whether that person
9 is eligible to vote in Arizona.

10 93. The Felony Provision violates the First and Fourteenth Amendments by severely
11 burdening the right to vote without justification by any legitimate state interest.

12 COUNT IV

13 **Undue Burden on the Right to Vote**

14 **U.S. Const. amends. I, XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202**

15 **(Cancellation and Removal Provisions)**

16 94. Plaintiffs incorporate by reference the allegations in Paragraphs 1–93 as though
17 fully set forth herein.

18 95. In the Ninth Circuit, a court considering a challenge to a state election law must
19 carefully weigh “the character and magnitude of the asserted injury to the rights protected
20 by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the
21 precise interests put forward by the State as justifications for the burden imposed by its rule,
22 taking into consideration the extent to which those interests make it necessary to burden the
23 plaintiff’s rights.” *Hobbs*, 18 F.4th at 1187 (cleaned up).

24 96. This balancing test uses a flexible sliding scale, where the rigorousness of
25 scrutiny depends upon the extent to which the challenged law burdens voting rights. A law
26 that imposes a “severe” burden is met with strict scrutiny. *Id.*

27 97. The Cancellation and Removal Provisions severely burden the right to vote
28 because they require voters to affirmatively and successfully cancel voter registrations in

1 all Arizona counties—except for the one in which they intend to vote—in order to avoid
2 the ultimate injury in the voting context: potential disenfranchisement because their
3 registration has been cancelled or they have been removed from the active early voting list
4 without notice.

5 98. Neither of these provisions has any reasonable relation to a legitimate state
6 interest. A person’s voter registration in another county is not related to whether that person
7 is eligible to vote in Arizona.

8 99. Nor are the Cancellation or Removal Provisions necessary to prevent election
9 fraud: people can commit election fraud without having multiple voter registrations, and
10 having multiple voter registrations does not mean a person is committing election fraud.
11 The same rationale applies for people on the active early voting list.

12 100. The Cancellation and Removal Provisions violate the First and Fourteenth
13 Amendments by severely burdening the right to vote without any legitimate state interest.

14 **COUNT V**

15 **Procedural Due Process**

16 **U.S. Const. amend. XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202 17 (Cancellation and Removal Provisions)**

18 101. Plaintiffs incorporate by reference the allegations in Paragraphs 1–100 as
19 though fully set forth herein.

20 102. The Cancellation and Removal Provisions compel county recorders to cancel
21 registrations and remove voters from the active early voting list without any requirement to
22 provide notice to the affected voters and regardless of whether the affected voters consent
23 to such action. A.R.S. § 16-165(A)(10), (B); *id.* § 16-544(Q), (R). Similarly, there is no
24 requirement for the county recorder to contact the voter to determine which voter
25 registration should remain active.

26 103. “Because voting is a fundamental right, the right to vote is a ‘liberty’ interest
27 which may not be confiscated without due process.” *Raetzl*, 762 F. Supp. at 1357.
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1 104. In the Ninth Circuit, a court considering a challenge to a state election law must
2 carefully weigh “the character and magnitude of the asserted injury to the rights protected
3 by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the
4 precise interests put forward by the State as justifications for the burden imposed by its rule,
5 taking into consideration the extent to which those interests make it necessary to burden the
6 plaintiff’s rights.” *Hobbs*, 18 F.4th at 1187 (cleaned up).

7 105. This balancing test uses a flexible sliding scale, where the rigorousness of
8 scrutiny depends upon the extent to which the challenged law burdens voting rights. A law
9 that imposes a “severe” burden is met with strict scrutiny. *Id.*

10 106. The Cancellation and Removal Provisions violate due process because they
11 severely burden the right to vote and could result in disenfranchisement by requiring the
12 cancellation of a voter’s registration and the removal of a voter from the early active voting
13 list without notice to the voter or the opportunity to contest such action.

14 107. The Cancellation and Removal Provisions do not contain any mechanism for
15 the county recorders to coordinate their cancellations or removals, such that two county
16 recorders might *each* cancel a voter’s registration (or remove the voter from the active early
17 voting list) in their respective counties upon receiving confirmation from each other that the
18 voter has registered in both counties. This double cancellation could result in a person being
19 suddenly stripped of any active voter registration and being removed from all active early
20 voting lists, without any notice whatsoever.

21 108. And even if a voter’s registrations are not all cancelled, nothing in the
22 Cancellation Provision prevents the cancellation of the registration where the voter
23 currently resides, is eligible and intends to vote—a scenario that could also lead to
24 disenfranchisement without notice. The Removal Provision similarly fails to protect against
25 this situation; a voter could be removed, without notice, from the active early voting list in
26 the county in which they intend to vote.

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1 109. The Cancellation and Removal Provisions do not have any reasonable relation
2 to a legitimate state interest. A person’s voter registration in another county is not related
3 to whether that person is eligible to vote in Arizona. There is no reason why county
4 recorders cannot provide notice or obtain consent before cancelling a registration or
5 removing a voter from the early active voting list.

6 110. Nor are the Cancellation or Removal Provisions necessary to prevent election
7 fraud: a person can commit election fraud without having multiple voter registrations, and
8 having multiple voter registrations does not mean a person is committing election fraud.
9 The same rationale applies for people on the active early voting list.

10 111. Absent relief, Plaintiffs, along with the Arizona Alliance’s members, will be
11 denied due process.

12 **COUNT VI**

13 **Equal Protection**

14 **U.S. Const. amend. XIV; 42 U.S.C. § 1983; 28 U.S.C. §§ 2201, 2202 15 (Cancellation and Removal Provisions)**

16 112. Plaintiffs incorporate by reference the allegations in Paragraphs 1–111 as
17 though fully set forth herein.

18 113. “The Equal Protection Clause of the Fourteenth Amendment to the United
19 States Constitution guarantees each and every person that they will not be denied their
20 fundamental rights—including the right to vote—in an arbitrary or discriminatory manner.”
21 *Charfauros v. Bd. of Elections*, 249 F.3d 941, 951 (9th Cir. 2001). “[I]f a challenged statute
22 grants the right to vote to some citizens and denies the franchise to others, the Court must
23 determine whether the exclusions are necessary to promote a compelling state interest.” *Id.*
(cleaned up).

24 114. Both the Cancellation and Removal Provisions place a duty on voters to
25 affirmatively cancel their other voter registrations, which would disproportionately burden
26 voters who are more likely to have multiple voter registrations, such as young voters,
27 college students, older voters—many of whom move to Arizona when they reach retirement
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1 age—and other transient voters who are more likely to be poorer voters and non-white
2 voters.

3 115. These same voters are more likely to register to vote in multiple states or
4 counties and are thus more likely to have their voter registrations canceled pursuant to the
5 Cancellation Provision and to be removed from the active early voting list pursuant to the
6 Removal Provision, without any notice or opportunity to take corrective action to maintain
7 their ability to vote.

8 116. The Cancellation and Removal Provisions will enable targeted voter
9 suppression by allowing third parties to provide county recorders with “credible
10 information” about people that have voter registrations in multiple counties, which would
11 then compel county recorders to confirm that information and, once confirmed, cancel the
12 affected voter registrations and remove affected voters from the active early voting list. As
13 discussed, SB 1260 makes it easier for voter suppressive groups to systematically target
14 groups that are more likely to move, register to vote in multiple counties, or rely on the
15 active early voting list, such as young voters, college students, older voters, and other
16 transient voters who are more likely to be nonwhite and poorer voters.

17 117. The Cancellation and Removal Provisions amount to an “arbitrary or
18 discriminatory” denial of the fundamental right to vote. *Charfauros*, 249 F.3d at 951.

19 118. The Cancellation and Removal Provisions are not “necessary to promote a
20 compelling state interest,” as is required if the provisions grant the right to vote to some
21 citizens but deny it to others. *Id.* (cleaned up). Having multiple voter registrations is legal
22 in Arizona and does not relate in any way to a person’s eligibility to vote.

23 119. Nor are the Cancellation or Removal Provisions necessary to prevent election
24 fraud: a person can commit election fraud without having multiple voter registrations, and
25 having multiple voter registrations does not mean a person is committing election fraud.
26 The same rationale applies for people on the active early voting list.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring, under the authority granted to this Court by 28 U.S.C. § 2201, that Defendants have violated the First and Fourteenth Amendments through the Challenged Provisions of SB 1260;
- b. Permanently enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing SB 1260;
- c. Awarding Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action under 42 U.S.C. § 1988 and other applicable laws; and
- d. Granting such other and further relief as the Court deems just and proper.

Dated: August 15, 2022

Respectfully submitted,

/s/ Daniel A. Arellano

Roy Herrera (No. 032901)
Daniel A. Arellano (No. 032304)
HERRERA ARELLANO LLP
530 East McDowell Road, Suite 107-150
Phoenix, Arizona 85004-1500

Aria C. Branch*
Daniel J. Cohen*
Joel Ramirez*
ELIAS LAW GROUP LLP
10 G Street NE, Suite 600
Washington, D.C. 20002

* *Pro Hac Vice* Application Forthcoming

Counsel for Plaintiffs