No. 26-1783

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

COUNT US IN, et al.,
Plaintiffs-Appellees,

v.

DIEGO MORALES, et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the Southern District of Indiana, No. 1:25-cv-00864-RLY-MKK

BRIEF OF THE STATES OF MISSOURI, ALABAMA, ALASKA, ARKANSAS, FLORIDA, GEORGIA, IDAHO, IOWA, KANSAS, KENTUCKY, LOUISIANA, MISSISSIPPI, MONTANA, NEBRASKA, NEW HAMPSHIRE, NORTH DAKOTA, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, UTAH, AND WEST VIRGINIA AS AMICI CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS SEEKING REVERSAL

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The Constitution vests state legislatures with the primary authority to set the rules for elections. *See, e.g.*, U.S. Const. art. I, § 4, cl. 1; *id.* art. II, § 1, cl. 2; *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997); *Carrington v. Rash*, 380 U.S. 89, 91 (1965). This authority comes with the responsibility of making difficult policy choices in a politically-sensitive area. To exercise this constitutional prerogative, States must balance between sometimes-competing considerations, such as encouraging voter participation and ensuring election integrity. *See Tully v. Okeson*, 977 F.3d 608, 611 (7th Cir. 2020).

Amici States have a strong interest in maintaining their constitutional prerogatives to set election rules. That interest is jeopardized when judges insert their own policy preferences into elections and displace rules enacted by the people's elected representatives. Of course, courts must enforce constitutional and statutory commands—such as prohibitions against racially discriminatory rules. *See* U.S. Const. amend. XIV; *id.* amend. XV. But if judges enjoin state election

[1] This brief is filed under Federal Rule of Appellate Procedure 29(a)(2).

laws without clear legal authority to do so, citizens will rightfully fear that the judiciary is interfering with their elections. *See Rucho v. Common Cause*, 588 U.S. 684, 704 (2019) ("With uncertain limits, intervening courts—even when proceeding with best intentions—would risk assuming political, not legal, responsibility for a process that often produces ill will and distrust." (citation omitted)); *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 11 (2024) ("[W]e must be wary of plaintiffs who seek to transform federal courts into weapons of political warfare that will deliver victories that eluded them in the political arena." (quotations omitted)).

The district court failed to heed those principles in enjoining enforcement of SB 10, Indiana's law that eliminated student IDs from the list of acceptable voter IDs. In the district court's view, the Constitution's atextual right to vote gives judges vast discretion to weigh a given election rule's "burdens" against a State's policy interests. SA18. This case is thus part of a troubling trend where, in the election-law context, some courts discount a State's policy priorities and brush them aside in favor of other goals—like the district court did. *See Daunt v. Benson*, 956 F.3d 396, 425 (6th Cir. 2020) (Readler, J., concurring) ("In the name of

'flexibility,' *Anderson-Burdick* risks trading precise rules and predictable outcomes for the imprecision and unpredictability of how the judicial-assignment wheel turns.").

This approach is legally erroneous and must be rejected. The constitutional right to vote prohibits only (1) *discriminatory* voting rules and (2) those that impose severe burdens and thus block *access* to the voting booth. *See Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 666 (1966); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 208 (2016) (Scalia, J., concurring in the judgment). Consequently, an election rule that introduces a mere inconvenience does not rise to the level of an unconstitutional burden on voting. *See Crawford*, 553 U.S. at 198 (plurality op.); *Luft v. Evers*, 963 F.3d 665, 676–77 (7th Cir. 2020).

Under that standard, the district court's decision is wrong. Indiana's law is not discriminatory; it applies with equal force to all citizens of the State. SA5–SA6, SA20. And removing student IDs from the list of permissible voter IDs does not block access to the voting booth. It simply removes *one* previously qualifying ID—one that is inherently

unreliable and can be easily obtained by noncitizens.[2] Even under SB 10, Hoosiers can easily obtain IDs and access the voting booth. *See Crawford*, 553 U.S. at 198 (plurality op.); *id.* at 209 (Scalia, J., concurring in the judgment). Consequently, rational basis review applies. *See Tully*, 977 F.3d at 615–16. And Indiana easily satisfied that standard in this case.

This Court should reverse.

ARGUMENT

I. The constitutional right to vote is narrow.

When it comes to voting rights, the Constitution's text prohibits only discriminatory voting rules. *See* U.S. Const. amend. XV. The Supreme Court has, however, inferred the existence of a slightly broader constitutional right to vote. *See Reynolds v. Sims*, 377 U.S. 533, 568 (1964). But this right has clear limits and is not absolute. *See, e.g.*, *Rodriguez v. Popular Democratic Party*, 457 U.S. 1, 9 (1982) ("[T]he right to vote, per se, is not a constitutionally protected right." (citation

[2] *See* Press Release, U.S. Attorney's Office Eastern District of Michigan, *Chinese National at the University of Michigan Charged with Illegally Voting in the 2024 Election*, (June 3, 2025), https://www.justice.gov/usao-edmi/pr/chinese-national-university-michigan-charged-illegally-voting-2024-election.

omitted)); *Luft*, 963 F.3d at 671. Notably, this right does not guarantee voters the right to vote "in any manner" they please. *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). For example, the Supreme Court has held that the right to vote does not guarantee any right to vote by mail. *See McDonald v. Board of Election Comm'rs of Chicago*, 394 U.S. 802, 807 (1969); *see also Tully*, 977 F.3d at 615–616 (relying on *McDonald*).

The narrow scope of the constitutional right to vote is fundamental to an orderly democratic process. The Constitution expressly delegates the power to regulate the "Times, Place and Manner" of federal elections to the States. U.S. Const. art. I, § 4, cl. 1. And, "as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983) (citation omitted).

Given this clear and broad constitutional assignment of power to state legislatures, courts must avoid treating the constitutional right to vote as an invitation "to rewrite state electoral codes." *Clingman v. Beaver*, 544 U.S. 581, 593 (2005). After all, any "sort of detailed judicial supervision of the election process would flout the Constitution's express

commitment of the task to the States." *Crawford*, 553 U.S. at 208 (Scalia, J., concurring in the judgment).

To avoid giving courts a broad license to second-guess state election rules, the Supreme Court has carefully defined and limited the constitutional right to vote. The right to vote is the right to "participate in elections on an equal basis with other citizens in the jurisdiction." *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972). Accordingly, this right guarantees only two fundamental protections.

First, States may not discriminate against voters. This anti-discrimination rationale explains the Supreme Court's adoption of the "one-person, one-vote rule," *see Reynolds*, 377 U.S. at 558, and its invalidation of poll taxes that "invidiously discriminate" on the basis of race or wealth, *Harper*, 383 U.S. at 666; *accord Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 50 (1959) ("States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, absent of course the discrimination which the Constitution condemns." (citations omitted)).

Second, States must ensure a fair and meaningful opportunity for citizens to "participate in elections." *Dunn*, 405 U.S. at 336. To safeguard

this opportunity, the Supreme Court recognized that States may not impose objectively severe burdens on voting that prevent citizens from accessing the polling place. *See Crawford*, 553 U.S. at 190 (plurality op.); *id.* at 205 (Scalia, J., concurring in the judgment); *see also Luft*, 963 F.3d at 665 ("Only when voting rights have been *severely* restricted must states have compelling interests and narrowly tailored rules." (emphasis added)). Thus, where a State's actions do not block meaningful access to the voting booth, the fundamental right to vote is not implicated and rational basis review applies. *See Tully*, 977 F.3d at 611 ("[U]nless a state's actions make it harder to cast a ballot at all, the right to vote is not at stake."); *see also Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 669 (holding that "[m]ere inconvenience" does not demonstrate a violation of statutory right to vote); *Pa. State Conf. of NAACP Branches v. Sec'y Commonwealth of Pa.*, 97 F.4th 120, 135 (3d Cir. 2024) ("We find it implausible that federal law bars a State from enforcing vote-casting rules that it has deemed necessary to administer its elections.").

II. Eliminating student IDs from the list of acceptable voter IDs does not implicate the right to vote and rational basis review applies.

Under any appropriate analysis of SB 10, rational basis is the proper standard of review. Indiana's law is neither discriminatory nor reasonably construed as blocking access to the voting booth. Thus, it does not implicate the fundamental right to vote, making this an easy case. *See Tully*, 977 F.3d at 615–16 ("[E]lection laws that do not curtail the right to vote need only pass rational-basis scrutiny.").

Indiana guarantees easy access to the voting booth. It is easy to register to vote. *See Crawford*, 553 U.S. at 186 (plurality op.) ("No photo identification is required in order to register to vote."). Many Hoosiers are eligible to vote by mail. *See id.* And Indiana permits all voters to cast ballots early—up to 28 days before an election. *See* SA4. If a voter arrives at the polls without an eligible ID, the voter may cast a provisional ballot that will be counted if he shows a valid photo ID to the circuit court clerk or county election board within ten days of the election. *See* SA5. And certain voters may cast a provisional ballot that will be counted if they submit an affidavit to the circuit court clerk or county election board within ten days of the election. *See id.*

Like most States, Indiana requires individuals who vote in-person to present an acceptable ID. The Supreme Court made clear that States can do this in *Crawford*, when it upheld Indiana's voter-ID law. *See* 553 U.S. at 186–189 (plurality op.). SB 10 merely removed *one* way to satisfy Indiana's voter-ID requirement. *See* SA20. Voters can still easily satisfy the voter-ID requirement in a variety of other ways. *Cf. Nashville Student Org. Comm. v. Hargett*, 155 F. Supp. 3d 749, 757 (M.D. Tenn. 2015) (rejecting a challenge to a law eliminating student IDs for voting because "[s]tudents, like everyone else, can select among a state-issued driver license, a United States passport, or the free, state-issued non-driver identification card."). At the polling place, a voter may present a driver's license, Indiana photo ID, U.S. passport, or other ID issued by the federal government or Indiana that contains (1) the voter's name; (2) a photograph of the voter; and (3) an expiration date. *See* SA4–SA5. Voters who do not have an eligible ID may obtain a free ID from the Indiana Bureau of Motor Vehicles. *See* SA5.

Therefore, as in *Crawford*, Indiana's voter-ID law imposes only a minor burden on voters. *See* 553 U.S. at 202 (plurality op.); *id.* at 209

(Scalia, J., concurring in the judgment). And rational basis review applies.

This Court's decision in *Tully* reinforces the propriety of applying rational basis review. In 2020, a group of Indiana voters sought to force Indiana to extend absentee voting to all eligible voters. *See Tully*, 977 F.3d at 611. This Court held that the challenge to Indiana's absentee-ballot regime did not implicate the fundamental right to vote, reasoning that "[i]f Indiana's law granting absentee ballots to elderly voters changed or even disappeared tomorrow, all Hoosiers could vote in person this November, or during Indiana's twenty-eight-day early voting window, just the same." *Id.* at 614. This Court applied rational basis review because "at issue [was] not a claimed right to vote but a claimed right to an absentee ballot." *Id.* (quotations omitted).

So too here. SB 10 merely eliminates *one* way for individuals to vote; the fact that there are easy alternative ways to vote means this case does not implicate the constitutional right to vote. Rational basis review therefore applies. *See Tully*, 977 F.3d at 615–16 ("[E]lection laws that do not curtail the right to vote need only pass rational-basis scrutiny.").

III. SB 10 easily satisfies rational basis review or any appropriate standard of review.

Indiana's law easily passes rational basis review. "The rational-basis standard is not demanding." *Luft*, 963 F.3d at 677. And courts may not enjoin enforcement of a statute if "there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *FCC v, Beach Commc'ns, Inc.*, 508 U.S. 307, 313 (1993).

The State's interest in the integrity of its elections provides ample justification for SB 22. "A State indisputably has a compelling interest in preserving the integrity of its election process." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam) (citation omitted). And this "interest in the 'integrity and reliability of the electoral process' is strong." *Luft*, 963 F.3d at 680 (quoting *Crawford*, 553 U.S. at 204 (plurality op.)).

Bizarrely, the district court discounted Indiana's interest in election integrity by finding that "there is no evidence that student IDs have been used to engage in voter fraud or any other voting-related misconduct." SA8–SA9. But it is well-settled that States are not required to endure fraud before acting to prevent and combat it. *Brnovich*, 594 U.S. at 686. In *Crawford*, the Supreme Court acknowledged that Indiana did not present evidence of specific cases of

voter fraud—but that did not matter. *See* 553 U.S. at 191 (plurality op.); *cf. ACLU of N.M. v. Santillanes*, 546 F.3d 1313, 1323 (10th Cir. 2008). The district court simply disregarded this precedent.

Moreover, removing student IDs from the list of acceptable IDs for voting is rationally related to the States' compelling interest in preserving the integrity of their elections. *See Common Cause v. Thomsen*, 574 F. Supp. 3d 634, 636 (W.D. Wis. 2021); *Brnovich*, 594 U.S. at 685. Unlike other forms of ID, student IDs are not indicative of citizenship. *See* Dkt. 91 at 25 (State Defs.' Mem. in Opp'n to Pls.' Mot. for Prelim. Inj.).[3] And student IDs are not subject to the same rigorous standards as state and federally issued identification, making them more susceptible to fraud. *See id.* at 23. Thus, eliminating student IDs from the list of acceptable identification bears a rational relationship to increasing the integrity and orderly administration of elections.

In concluding otherwise, the district court determined that SB 10 placed a "moderate burden" on students who "rely more heavily on their student IDs to vote because they often lack other options." SA21, SA29.

[3] *See also* U.S. Attorney's Office Eastern District of Michigan, *supra* note 2.

But *Crawford* rejected a virtually identical argument. There, the plaintiffs invoked alleged burdens on elderly voters. *See* 553 U.S. at 187, 198 (plurality op.) (noting the challengers' argument that requiring voters to present photo ID "arbitrarily disfranchise[d] qualified voters who do not possess the required identification and will place an unjustified burden on those who cannot readily obtain such identification"). But the Supreme Court made clear that judges cannot home in on atypical burdens experienced by subgroups of voters, but must instead assess whether the challenged law objectively imposes a severe burden on voters *as a whole*. *Id.* at 207–08 (Scalia, J. concurring in the judgment); *see id.* at 199 (plurality op.); *Luft*, 963 F.3d at 676–77 (rejecting similar subgroup argument); *Richardson v. Tex. Sec'y of State*, 978 F.3d 220, 236 (5th Cir. 2020) (explicitly rejecting the practice of analyzing voting regulations based on a subgroup of voters).

The district court also cited the inconvenience students face in "obtain[ing] an alternative form of identification" in its burden weighing analysis. SA26. But the Supreme Court has clearly held that "gathering the required documents . . . does not qualify as a substantial burden on the right to vote, or even represent a significant increase over the usual

burdens of voting." *Luft*, 963 F.3d at 678 (quoting *Crawford*, 553 U.S. at 198 (plurality op.)). Obtaining a form of ID authorized under Indiana law is nothing more than a "usual burden[] of voting." *Crawford*, 553 U.S. at 198 (plurality op.).

CONCLUSION

The district court's decision defies precedent and improperly "allows a political question—whether a rule is beneficial, on balance—to be treated as a constitutional question and resolved by the courts rather than by legislators." *Luft*, 963 F.3d at 671. This Court should reverse.

Dated: June 22, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Louis J. Capozzi, hereby certify that the foregoing brief has been filed with the Clerk of Court using the Court's electronic filing system, which sent notification of such filing to all counsel of record.

Dated: June 22, 2026

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CERTIFICATE OF COMPLIANCE

This brief complies with the word limitations of Seventh Circuit Rule 29 because it contains 2,705 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f). This brief complies with the typeface requirements of Seventh Circuit Rule 32(b) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in Century Schoolbook 14-point font using Microsoft Word 2016. The hard copies submitted to the clerk are exact copies of the CM/ECF submission.

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