

In the Supreme Court of the United States

U.S. DEPARTMENT OF HOMELAND SECURITY, ET AL.,
Applicants,

v.

LEAGUE OF WOMEN VOTERS, ET AL.,
Respondents.

**On Applications to the Honorable John G. Roberts, Chief
Justice and Circuit Justice for the D.C. Circuit**

**BRIEF OF *AMICI CURIAE* FLORIDA, INDIANA,
IOWA, AND OHIO IN SUPPORT OF APPLICANTS'
APPLICATION FOR STAY**

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INTEREST OF *AMICI CURIAE*

Pursuant to Supreme Court Rule 37, the States of Florida, Indiana, Iowa, and Ohio, respectfully submit this brief as *amici curiae* in support of the applicants, the United States Department of Homeland Security, et al. (DHS).

Amici States “indisputably ha[ve] a compelling interest in preserving the integrity of [their] election process[es].” *Eu v. San Francisco Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989). Beyond that compelling interest, they bear the affirmative *obligation* to ensure the integrity of elections conducted within the state, in particular by maintaining accurate voter registration records. *See, e.g.*, 52 U.S.C. § 21083(a) (requiring States to maintain accurate voter registration records and make reasonable efforts to remove ineligible registrants); 52 U.S.C. § 20501(b)(4) (similar); § 98.075(1), Fla. Stat. (“The [Florida Department of State] shall protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records.”). But when, as here, a court interferes with the States’ ability to maintain accurate and current voter registration records, election integrity—and confidence in elections—suffers. Amici thus have an

interest in ensuring that this Court preserves the States’ ability to maintain the integrity of their elections through the updates to SAVE. Indeed, Amici States deeply rely on a settlement agreement with DHS that requires DHS to maintain certain SAVE features for the Amici States. The proceedings in this case completely undermine that judicially approved settlement agreement between the States and the federal government. Refusing to grant a stay would jeopardize any future settlement prospects between the States and the federal government. And absent a stay, the enforcement of that settlement agreement, and the integrity of their elections, could be in jeopardy.

BACKGROUND

Although estimates vary on the impact of the border crisis created by the Biden-Harris Administration, at a minimum millions of new unauthorized aliens are present in our country. States have limited power to enforce federal law and deport these individuals when the federal government cannot or will not do so. *See Arizona v. United States*, 567 U.S. 387, 401–02 (2012) (observing that “a single sovereign” is “responsible for maintaining a comprehensive and unified system to keep track of aliens within the Nation’s borders”). But States can ensure state

laws are followed, including laws prohibiting non-citizens from voting in State elections. *See* Art. VI, § 2, Fla. Const.; *see also* Matthew Tragesser, *Illegal Aliens Are Still Voting in Our Elections*, Heritage Found. (July 10, 2024) (providing examples of non-citizen voting).¹

As part of preventing voter fraud, including non-citizen voting, the Amici States have an obligation to maintain accurate and current voter registration records. *See, e.g.*, § 98.075(1), Fla. Stat. And as part of “the prerogatives and responsibilities of the States and the National Government vis-à-vis one another,” *Bond v. United States*, 564 U.S. 211, 221 (2011), the federal government has an obligation to cooperate with the States in ensuring only citizens vote in their elections. That cooperation mandate is based in two provisions of federal law. First, 8 U.S.C. § 1373(c) requires the federal government to “respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency. . . .” Second, 8 U.S.C. § 1644 states that “no State or local government entity may be prohibited, or in any

¹ Available at <https://www.heritage.org/election-integrity/commentary/illegal-alien-are-still-voting-our-elections>.

way restricted, from sending to or receiving from [federal immigration authorities] information regarding the immigration status, lawful or unlawful, of an alien in the United States.”

Pursuant to Congress’s direction, DHS has implemented a “system for the verification of immigration status” that is “available to all the States,” 42 U.S.C. § 1320b–7 note, and DHS must “respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency . . . by providing the requested verification or status information.” 8 U.S.C. 1373(c). DHS fulfills these obligations through Systematic Alien Verification for Entitlements (SAVE), an online service that enables users to verify a person’s citizenship status, often within seconds. Yet before the updates to SAVE, the federal government had been refusing to comply with these obligations because the old SAVE system could not provide meaningful responses to most of the States’ verification requests. That refusal frustrated Amici States’ ability to maintain the integrity of their elections, and so Amici sued DHS in the Northern District of Florida, seeking permanent injunctive relief. *Florida v. DHS*, No. 3:24-cv-509 (N.D. Fla.) (filed Oct. 16, 2024).

After DHS updated SAVE, Amici and DHS entered into a settlement agreement in which DHS agreed that SAVE would maintain certain capabilities that would allow for meaningful responses to verification requests. In exchange for Amici States’ release and dismissal of their claims, DHS agreed—among other things—to ensure that the SAVE system had the capability to (1) “[i]ntegrat[e] with the Social Security Administration to allow searches with full [SSNs] to be used as a non-DHS enumerator”; (2) “[i]ntegrat[e] with the Social Security Administration to allow searches with last-four-digits SSNs to be used as a non-DHS enumerator”; and (3) “process bulk upload verification requests so that users of the system will not need to input verification requests one-by-one.” *Florida*, No. 3:24-cv-509, ECF 30-1, at 4–5 (N.D. Fla. Nov. 28, 2025).

Relying on DHS’s guarantees in the settlement agreement, Amici moved to dismiss with prejudice under Federal Rule of Civil Procedure 41(a)(2). The district court granted that motion. *Florida*, No. 3:24-cv-509, ECF 31 (N.D. Fla. Dec. 1, 2025). The district court retained jurisdiction over the case for the purpose of enforcing the settlement agreement. *Id.* at 1–2. From December 2025 to June 2026, Amici and

DHS performed their duties and obligations under the settlement agreement. DHS ensured that the SAVE system had a bulk upload function and was searchable via Social Security Numbers and last-four-digits Social Security Numbers. *See Florida*, No. 3:24-cv-509, ECF 32-1, ¶ 5 (N.D. Fla. June 30, 2026).

Meanwhile, in this case, DHS defended the modifications to the SAVE program, noting that those changes were “as required by the judicially enforceable settlement agreement in Florida.” *See League of Women Voters v. U.S. Dep’t of Homeland Sec’y*, No. 25-cv-3501, ECF 77-1, at 63 (D.D.C. April 2, 2026). Given the prior-in-time binding order, DHS argued that “principles of equity and comity also require the Court not to enter relief that would subject the United States to conflicting court orders.” *Id.* at 62. After the district court in this case entered its final judgment (ignoring those concerns), DHS disabled the bulk upload function in SAVE. *Florida*, No. 3:24-cv-509, ECF 32-1, ¶ 5 (N.D. Fla. June 30, 2026). DHS also disabled the ability for States to search the database with Social Security Numbers or last-four-digit Social Security Numbers. *Id.*

When DHS took the position that Judge Sooknanan’s order bound it notwithstanding the Northern District of Florida’s order incorporating the settlement agreement, Amici moved to enforce the settlement agreement in the Northern District of Florida. *Florida*, No. 3:24-cv-509, ECF 32 (N.D. Fla. June 30, 2026). The district court granted Amici States’ motion, holding that DHS was “plainly in violation of the settlement agreement,” and explaining that “[t]he fact that [DHS] disabled those features to comply with Judge Sooknanan’s order does not change the fact that they violated the agreement.” *Florida*, No. 3:24-cv-509, ECF 45, at 5 (N.D. Fla. July 7, 2026). That Judge Sooknanan concluded that the modifications to SAVE were inconsistent with federal law also did not “somehow undo” the district court’s “implicit determination” to the contrary when it approved the settlement agreement. *Id.* at 6. After all, the Northern District of Florida “is not bound by Judge Sooknanan’s order,” and “the [district court] disagree[d] with the conclusions in that order.” *Id.* at 7. In granting Amici States’ motion, the district court ordered DHS to “immediately comply” with the settlement agreement “by reinstating [Amici States’] access to the bulk-upload and SSN-search features in the SAVE system.” *Id.* at 9–10.

In an effort to comply with both courts’ orders to the greatest extent possible, DHS restored certain features of the updated SAVE system for Amici States, while continuing to disable those features for everyone else.

The League of Women Voters and Electronic Privacy Information Center (collectively, LWV) then intervened in *Florida* and appealed the district court’s order enforcing the settlement agreement. After LWV filed their brief, the Eleventh Circuit issued a jurisdictional question ordering the parties to address whether LWV has standing to appeal in that case, an issue that may rest in part on whether LWV has standing in this case.

ARGUMENT

THE MODIFICATIONS TO SAVE BRING THE FEDERAL GOVERNMENT INTO COMPLIANCE WITH ITS OBLIGATIONS UNDER FEDERAL LAW AND UNDER THE SETTLEMENT AGREEMENT WITH AMICI, ENABLING THE STATES TO ENSURE THE INTEGRITY OF THEIR ELECTIONS.

To obtain a stay of a vacatur order pending review in the court of appeals and in this Court, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining certiorari, and a likelihood of irreparable harm. *See NRCC v. Brown*, No. 26A274, slip op. 2 (Sept. 4, 2026) (per curiam). In “close cases,” the Court “balance[s] the equities and weigh[s] the relative harms.” *Id.* For the reasons described

in DHS's application, the government will likely succeed on the merits. Amici States write to explain the importance of the modifications to SAVE.

As the Court is well aware, the 2026 midterm elections are underway. The modified SAVE system, which DHS is required by the *Florida* settlement agreement to make available to Amici, represents a critical tool in guaranteeing the integrity of those elections. The updates to SAVE have brought the federal government into compliance with its obligations under federal law. They have also allowed Amici to comply with their own obligations to ensure the integrity of their elections by maintaining accurate voter registration records. *See, e.g.*, 52 U.S.C. § 21083(a) (requiring States to maintain accurate voter registration records and make reasonable efforts to remove ineligible registrants); 52 U.S.C. § 20501(b)(4) (similar); § 98.075(1), Fla. Stat. (“The [Florida Department of State] shall protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records.”).

One facet of that duty is ensuring that ineligible individuals do not vote in Florida elections. *See* § 98.075, Fla. Stat. (requiring Florida

supervisors of elections to remove ineligible voters from voter rolls). And this is no small task; Florida had almost 14 million registered voters for the 2024 General Election. *Florida*, No. 3:24-cv-509, ECF 32-1, at 2 (N.D. Fla. June 30, 2026). Under Florida law, only U.S. citizens are eligible to vote in Florida elections. Art. VI, § 2, Fla. Const.; § 97.041(1)(a)(2), Fla. Stat. Federal law mirrors this limit. *See* 18 U.S.C. §§ 611, 1015. As part of its duty to maintain voter registration rolls, the Florida Department of State (FDOS) must actively identify that non-citizens who have registered to vote in Florida and take affirmative steps to remove those ineligible registrants. *See* § 98.075(6), Fla. Stat. Federal law requires it. *See* 42 U.S.C. § 15483(a). Access to “certain information from state and *federal* officials and entities” is necessary to perform these duties. § 98.093(1), Fla. Stat. (emphasis added); § 98.075(6), Fla. Stat. SAVE is an integral tool and Florida has recently enacted legislation to require the use of this “federal governmental source” at the earliest moment permissible under federal law. § 4 Ch. 2026-26, Laws of Fla. (HB 991). After all, Florida cannot track and maintain immigration and citizenship information on its own. *See Arizona*, 567 U.S. at 401–02. That

responsibility lies with the federal government, namely DHS. *See id.* (describing the federal regime of alien registration).

Through the modified SAVE system, DHS carries out that responsibility and its statutory obligations to cooperate with States for verification purposes. *See* 8 U.S.C. § 1373(c) (DHS “shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information”); 8 U.S.C. § 1644 (prohibiting any restrictions on communication between state and local governments and DHS regarding immigration status of aliens). Specifically, the bulk upload function in SAVE and the ability to search the database with Social Security Numbers or last-four-digit Social Security Numbers are critical tools for FDOS and Florida’s supervisors of elections. “Since the settlement agreement went into effect, [FDOS] has been able to perform bulk uploads of voter registration data, search with a social security number instead of or in addition to U.S. government issued immigration number such as an alien number, and receive timelier responses affirming U.S citizen status or non U.S. citizen

status.” *Florida*, No. 3:24-cv-509, ECF 32-1, at 2 (N.D. Fla. June 30, 2026); *see also Florida*, No. 3:24-cv-509, ECF 32-2, at 2 (N.D. Fla. June 30, 2026) (“The settlement agreement achieved in this case ensured that Ohio, among other states, could reliably consult the SAVE system in order to accurately and efficiently review the citizenship records of Ohio voters as a means of safeguarding the integrity of Ohio’s elections.”).

It is also a critical tool for Amici States in other ways. As just one example, Iowa has integrated SAVE into its professional licensing statutory scheme, meaning SAVE verification is statutorily required before Iowa can grant professional licenses in numerous industries. *See Florida*, No. 3:24-cv-509, ECF 34 ¶ 7 (N.D. Fla. July 1, 2026). Without these SAVE features, licenses cannot be issued, and there is already a backlog of over 350 professionals who cannot be cleared to get their license. *See id.* at ¶ 10. This means there are fewer medical and educational professionals available to serve Iowans. *Id.* at ¶ 13.

The district court’s final judgment in this case thus threatens Amici States’ ability to maintain accurate voter rolls. Although the Northern District of Florida ordered DHS to comply with the settlement agreement and grant access to the updated SAVE to Amici, LWV intervened there

and is appealing that order. LWV's primary contention on appeal in the Eleventh Circuit is that the parties' settlement agreement contains a boilerplate provision stating that the agreement does not impose on DHS any obligation that would be inconsistent with a federal statute. In LWV's view, the district court's order in this case holding that the updates to SAVE violated federal laws somehow triggered that provision, purportedly providing DHS a defense to breach and allowing them to disable the updates to SAVE for Amici.

Making clear (1) that LWV does not have standing in this case and (2) that DHS is likely to succeed in appealing the district court's final judgment here would eliminate any uncertainty about whether the settlement agreement between Amici and DHS—an agreement to which LWV is not a party—remains in full effect, thereby protecting the integrity of the upcoming elections in Amici States.² *See, e.g., Florida*, No. 3:24-cv-509, ECF 32-1, at 2 (N.D. Fla. June 30, 2026) (“Without the functionality provided for in the settlement agreement, we cannot identify potential noncitizens as accurately, efficiently, and timely to

² As Amici States intend to argue before the Eleventh Circuit, whether or not LWV has standing in this case, LWV has no standing to appeal in *Florida*. Similarly, even if DHS is not likely to succeed on appeal in this case, the Northern District of Florida did not err in enforcing the parties' settlement agreement.

perform the daily duty of eligibility list maintenance that Florida law requires even through an election cycle and to ensure that only eligible registered voters who are U.S. citizens are casting votes in our elections.”).

By contrast, crippling Amici States’ abilities to maintain accurate voter rolls before the midterm elections would undermine “the citizen’s confidence in government,” which is an “interes[t] of the highest importance.” *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765, 787, 789 (1978). And should Florida be unable to carry out its statutory obligations, that would inflict sovereign injury upon the state. *See Abbott v. Perez*, 585 U.S. 579, 602 n.17 (2018) (“[T]he inability to enforce its duly enacted plans clearly inflicts irreparable harm on the State.”); *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (“[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.” (quotation omitted)). That injury is particularly acute because several States have incorporated the SAVE features into state law, as explained above. Invalidating the updates to SAVE would therefore cause those

States to violate their own laws, striking a grievous blow against federalism.

CONCLUSION

The Court should grant the application to stay.

Dated: September 16, 2026. Respectfully submitted,

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