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SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

League of Women Voters of Alaska, Alaska Black Caucus, and **Alaska Public Interest Research Group,**

Plaintiffs,

v.

Nancy Dahlstrom, in her official capacity as Lieutenant Governor for the State of Alaska,

Carol Beecher, in her official capacity as the Director of Elections for the Division of Elections for the State of Alaska,

Defendants.

Case No.: 3AN-26-06319 CI

OPPOSITION TO THE STATE'S MOTION TO DISMISS

Plaintiffs brought this action to protect the privacy rights and stop the unlawful disenfranchisement of registered Alaska voters. They challenge the Division of Elections' (DOE) decision to cede sensitive voter data to the U.S. Department of Justice (DOJ) and its agreement to remove Alaska voters from the voter registration list (VRL) at DOJ's request. Defendants' motion to dismiss this significant matter, without discovery and full adjudication of important public rights and constitutional protections, should be denied.

Plaintiffs have standing as organizations dedicated to protecting the rights of voters in Alaska and promoting voter participation across the state. Because the unredacted VRL has already been shared and DOE has already committed to removing voters identified by DOJ as "ineligible" within 45 days of receiving a list from DOJ, all claims are ripe for review. Confidential voter data is inarguably protected by the Alaska Constitution's express right to privacy, which protects against divulgence of this information, including to the federal government. Furthermore, the context in which DOE agreed to share confidential voter information with DOJ is material to the Court's assessment of the privacy interest at issue. Finally, DOE's actions are not insulated from judicial review based on a catch-all severability clause in its agreement with DOJ or various, non-binding statements that they will not violate Alaska law.

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Factual Background

Plaintiffs set forth essential facts in their Amended Complaint, which is incorporated by reference. Plaintiffs note that on May 4, 2026, Alaska Public Interest Group (AKPIRG) was added as a plaintiff to this case through the Amended Complaint, which was served on opposing counsel via email that same date. Accordingly, and notwithstanding the fact that the State's motion does not mention AKPIRG, AKPIRG is a plaintiff in this action.

Legal Standards

Motions to dismiss are "disfavored" and it must be "beyond doubt that the plaintiff can prove no set of facts that would entitle [them] to relief before dismissal will be granted."[1] "Even if the relief demanded is unavailable, the claim should not be dismissed

[1] *Sagoonick v. State*, 503 P.3d 777, 792 (Alaska 2022), citing *Catholic Bishop of N. Alaska v. Does 1-6*, 141 P.3d 719, 722 (Alaska 2006).

as long as some relief might be available on the basis of the alleged facts."[2] In considering such a motion, the court "must presume all factual allegations of the complaint to be true and make all reasonable inferences in favor of the non-moving party."[3]

In assessing a motion to dismiss on justiciability grounds, the Court must consider (1) whether deciding the claim would require it to answer questions "that are better directed to the legislative or executive branches of government" and (2) "whether there are other reasons—such as ripeness, mootness, or standing—that persuade [the Court] that, though the case is one [the Court is] institutionally capable of deciding, prudence counsels" against it.[4] A justiciable controversy "is one that is not hypothetical, abstract, academic or moot"[5] and has "matured to a point that warrants decision."[6]

A motion to dismiss under Alaska Civil Rule 12(b)(6) is only warranted when the pleading fails "to state a claim upon which relief can be granted." To survive a 12(b)(6) motion to dismiss, a "complaint need only allege a set of facts consistent with and appropriate to some enforceable cause of action."[7]

Argument

Plaintiffs have multiple forms of standing to challenge DOE's unlawful

[2] *Id.*
[3] *E.g., Adkins v. Stansel,* 204 P.3d 1031, 1033.
[4] *Kanuk ex rel. Kanuk v. State, Dep't of Nat. Res*., 335 P.3d 1088, 1096 (Alaska 2014).
[5] *McDonnell v. State Farm Mut. Auto. Ins. Co*., 299 P.3d 715, 724 (Alaska 2013).
[6] *State v. Am. Civil Liberties Union of Alaska,* 204 P.3d 364, 368–69 (Alaska 2009).
[7] *Torrence v. Blue*, 552 P.3d 489, 492 (Alaska 2024) (quoting *Clemensen v. Providence Alaska Med. Ctr.*, 203 P.3d 1148, 1151 (Alaska 2009)).

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divulgence of Alaska's unredacted VRL to DOJ. Furthermore, all claims are ripe for review, and Plaintiffs have set forth facts that are consistent with an enforceable cause of action. As such, this Court should find that all claims are justiciable and reject the State's motion to dismiss all counts under Alaska Civil Rule 12(b)(6).

A. Plaintiffs have multiple forms of standing to challenge DOE's actions, any one of which qualifies them to bring all claims.

An organization can establish standing in two ways. First, it can sue on behalf of its members, in which case it must establish associational standing. To do so, it must show that "(1) [its] members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit."[8]

Second, it can bring suit on its own behalf, in which case it must meet the same requirements that any other legal person must meet to establish standing.[9] To establish interest-injury standing, a plaintiff must have an interest adversely affected by the challenged conduct; the injury to the interest "need not be great."[10] To establish citizen-taxpayer standing, the plaintiff must show the case is one of public significance, and that the plaintiff is an appropriate party to bring the case.[11] Moreover, the assessment of an

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[8] *Alaskans for a Common Language v. Kritz*, 3 P.3d 906, 915 (Alaska 2000).
[9] *E.g.*, *State v. Planned Parenthood of Alaska*, 35 P.3d 30, 34 (Alaska 2001) (applying the same requirements for individual interest-injury standing to Planned Parenthood of Alaska and determining it had standing).
[10] *Trs. for Alaska v. State, Dep't of Nat. Res.*, 736 P.2d 324, 327 (Alaska 1987).
[11] *Baxley v. State*, 958 P.2d 422, 428 (Alaska 1998) (quoting *Trs. for Alaska*, 736 P.2d at 329–30).

organization's interest and injury supporting standing must take into account the Alaska Supreme Court's liberal standing jurisprudence "favoring increased accessibility to judicial forums."[12]

Plaintiffs satisfy the requirements for all three forms of standing, any of which is an independent basis to deny the motion.

1. Plaintiffs have associational standing as to their privacy claim, and DOE concedes associational standing as to their list maintenance claims.

Plaintiffs satisfy all three prongs of the associational standing analysis. To start, DOE does not contest [Mot. to Dismiss at 8-9] that Plaintiffs' members would have standing to sue in their own right or that the participation of individual members is unnecessary.[13] Because DOE also does not contest that protecting the right to vote is germane to Plaintiffs' missions [Mot. to Dismiss at 8], associational standing as to the list maintenance claims is effectively uncontested. As to the privacy claim, DOE's arguments fail because protecting privacy rights is germane to Plaintiffs' missions.

Voter privacy is critical to election integrity in the United States, and disclosure of sensitive voter information has historically led to voter intimidation, bribery, and harassment, thereby undermining the ability of voters to freely exercise the franchise.[14] Courts have consistently held that the centralization of sensitive voter information by the federal government would "have a chilling effect on voter registration which would

[12] *E.g.*, *Trs. for Alaska*, 736 P.2d at 327.
[13] *Alaskans for a Common Language,* 3 P.3d at 915.
[14] *See, e.g.*, *Brief of Amici Curiae Electronic Privacy Information Center*, *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36 (1st Cir. 2024) (Dkt. No. 23-1361).

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inevitably lead to decreasing voter turnout as voters fear that their information is being used for some inappropriate or unlawful purpose."[15]

League of Women Voters of Alaska (LWVAK) seeks to empower voters and has a "long-standing interest in ensuring that all eligible Alaskan voters register to vote and participate in government and politics through the electoral process." [Am. Compl. ¶ 14.] As such, LWVAK is committed to "ensuring voter . . . protection," including protecting voters' privacy rights. [Am. Compl. ¶ 12.] The "degradation of voter privacy in Alaska" negatively impacts LWVAK's interest in seeing all eligible Alaskans register to vote and participate in elections by undermining trust in the Alaska voting system, making it less likely that voters will want to register and participate. [Am. Compl. ¶ 14.] Protecting voter privacy is thus "integral to promoting" LWVAK's mission. *Id.*

Alaska Black Caucus (ABC) advances its mission to "assert the Constitutional rights of African Americans in Alaska" in part by "promoting voter registration and active voter participation within the African American community throughout the state." [Am. Compl. ¶15.] ABC's interest in "actively seeking to empower the Black vote" is likewise "negatively impacted by violations of voter privacy" and therefore germane to its mission. [Am. Comp. ¶ 17.] Furthermore, seeking to protect the constitutional right to privacy as enshrined in the Alaska Constitution is patently germane to ABC's mission to "assert the Constitutional rights of African Americans in Alaska." [Am. Comp. ¶ 15.]

AKPIRG pursues its mission for "accountable government systems" in part

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[15] *See, e.g.*, *United States v. Weber*, 816 F.Supp.3d 1168, at 1175-76, 1195-96 (C.D. Cal. 2026) (appeal filed Mar. 3, 2026).

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through its participation in the Alaska Voter Hub, which "strives to increase access to the ballot box." [Am. Compl. ¶ 18.] AKPIRG "encourag[es] Alaskans to participate in the democratic process, including by voting" at "community events and through its civic engagement initiatives." [Am. Compl. ¶ 19.] AKPIRG's interests in both "voter engagement and good governance are negatively impacted by the violations of voter privacy in Alaska," as Defendants' actions undermine voter and potential voter confidence and trust in the system. [Am. Compl. ¶ 20.]

2. Plaintiffs have organizational standing as to all claims.

Plaintiffs have organizational standing in their own right because they meet the requirements to assert both interest-injury or citizen-taxpayer standing, either of which would be sufficient to defeat the motion.

a. Plaintiffs meet the requirements for interest-injury standing and therefore have organizational standing.

To have interest-injury standing, a plaintiff must have an "interest adversely affected by the complained-of conduct."[16] Such an interest may be economic, or it may be intangible, such as an aesthetic or environmental interest.[17] The degree of injury to the interest need not be great; "[t]he basic idea . . . is that an identifiable trifle is enough for standing to fight out a question of principle . . ."[18] For example, the Court has found that commercial fisherman had standing to challenge the sale of offshore oil and gas leases

[16] E.g., *Keller v. French*, 205 P.3d 299, 304 (Alaska 2009).
[17] E.g., *Trs. for Alaska*, 736 P.2d at 327.
[18] *Id*. (quoting *Wagstaff v. Superior Ct., Fam. Ct. Div.*, 535 P.2d 1220 (Alaska 1975)).

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because they have an economic interest in "the biological productivity of the bay"[19] and that an Alaska resident had standing to challenge the State's predator control program which she alleged injured her interest in viewing the bears at a park she frequented.[20]

Plaintiffs have a strong interest in Alaska's civic health and the state of democratic engagement in Alaska, including ensuring that voters can register, vote, and participate with minimal burdens and barriers on their access to the franchise. [Am. Compl. ¶¶ 12, 15, 19.] This interest stands on its own, like the aesthetic interests of those who appreciate and seek to protect the natural environment.[21] It also implicates related economic interests, because rules and practices which burden and discourage civic participation make it more difficult and costly for Plaintiffs to carry out their missions.

Plaintiffs allege that DOE has adversely affected those interests by violating the constitutionally protected privacy rights of all Alaska voters and entering into an agreement with DOJ whose terms could lead to unlawful disenfranchisement in violation of the constitutionally protected rights to vote and due process. [Am. Compl. ¶¶ 46, 51, 61.] The purging of voters from the VRL for reasons other than those proscribed by Alaska law would further impinge upon voter participation and protection. [Am. Compl. ¶¶ 51, 61.]

Defendants wrongly argue that Plaintiffs have no personal stake or adversely affected interest in the challenged conduct because, as organizations, they are not entitled

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[19] *Moore v. State*, 553 P.2d 8, 24 (Alaska 1976).
[20] *Bittner v. Bd. of Game*, 563 P.3d 1123, 1128 (Alaska 2025).
[21] *Cf. id.*

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to register or to vote and thus there exists no "personal data" about them for DOE to disclose to DOJ. [Mot. to Dismiss at 4-5.] This absurdly literal approach ignores that Plaintiff organizations have their own distinct interests and missions that are adversely impacted by DOE's actions. Interests which Defendants fail to address.[22]

b. Plaintiffs have met the requirements for citizen-taxpayer standing and therefore have organizational standing.

Plaintiff organizations can also proceed on citizen-taxpayer standing. In order to establish citizen-taxpayer standing, (1) the case must be one of public significance and (2) the plaintiff must be an "appropriate party" to bring the case.[23] The appropriate-plaintiff requirement weighs three factors, whether (1) the plaintiff is a "sham plaintiff" with no true adversity of interest; (2) the plaintiff is capable of competently advocating his or her position; and (3) there is another potential plaintiff more directly affected by the challenged conduct who had sued or is likely to sue.[24] Importantly, the arguable existence of a more directly impacted individual does not strip an *otherwise appropriate* plaintiff of citizen-taxpayer standing if that more directly impacted individual does not or is not likely to sue.[25]

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[22] *See, e.g.*, *Planned Parenthood of Alaska*, 35 P.3d at 34 (finding that Planned Parenthood had a "strong and direct interest" in challenging a statute that prohibited doctors from performing abortions on unemancipated women under seventeen without parental consent or judicial authorization because it "provided services" to women under seventeen, including counselling and referral on abortion).
[23] *E.g.*, *Keller*, 205 P.3d at 302.
[24] *Id.*
[25] *Trs. for Alaska*, 736 P.2d at 330 (finding that "the mere possibility" that a more effected party "may sue does not mean that appellants are inappropriate plaintiffs.") *Cf. Keller*, 205 P.3d at 302 (finding "[t]hat individuals who are more directly affected have chosen

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This case is one of great public significance. Plaintiffs challenge the legality of DOE's actions in relation to multiple provisions of the Alaska Constitution and the Alaska Statutes, including the rights to privacy, vote, and due process. [Am. Compl. ¶¶ 42-61.] The Alaska Supreme Court in *Baxley* interpreted the public-significance requirement to encompass constitutional questions, especially when the challenged action "undermines public confidence in the integrity" of government systems and "violates the public trust."[26] Similar to *Baxley*, in this case, Plaintiffs seek to challenge the constitutionality of specific government actions which impact the entire Alaska electorate and have produced significant public concern over the integrity of the electoral system. [Am. Compl. ¶ 40, n.11.]

Plaintiffs also fulfill all three appropriate-plaintiff requirements. First, they have true adversity of interest because the challenged conduct directly impacts their ability to successfully achieve their respective missions. *Supra* Section A.I. Second, Plaintiffs are capable of competently advocating for their asserted position, having retained counsel who are experts on issues of the Alaska constitution, voting rights, and data privacy.[27] Third, Defendants have provided no evidence that a more directly impacted plaintiff has filed suit or is likely to do so. Instead, Defendants inaptly rely on partial excerpts from

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not to sue despite their ability to do so does not confer citizen-taxpayer standing on an *inappropriate* plaintiff") (emphasis added).

[26] *Baxley v. State*, 958 P.2d at 428-29; *see also State, Dep'ts of Transp. & Lab. v. Enserch Alaska Const., Inc.*, 787 P.2d 624, 630 (Alaska 1989) (holding that "the constitutionality of the regional preference law is clearly a question of public significance").

[27] *Trs. for Alaska*, 736 P.2d at 330 (finding Plaintiffs could advocate for their position because they were "well represented by competent counsel who have forcefully presented their position").

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Keller [Mot. to Dismiss at 6, n.12] in an attempt to preclude Plaintiffs from bringing suit simply because more directly affected potential plaintiffs have not filed.[28] Contrary to Defendants' position, the "mere possibility" that a more-directly affected individual may be interested in filing litigation cannot preclude another *affected* party from establishing citizen-taxpayer standing.[29] Unlike in *Law Project for Psychiatric Rights, Inc. v. State*, where the Plaintiff could not establish citizen-taxpayer standing because it was not directly affected by the challenged conduct,[30] LWVAK, ABC, and AKPIRG have all been adversely affected. [Am. Compl. ¶¶ 14, 17, 20.] Thus, contrary to Defendants' assertion, Plaintiffs are not attempting to substitute citizen-taxpayer standing for third party standing because they allege harm to their respective organizations.[31] In conclusion, because Plaintiffs are directly affected parties, no more-directly affected party has sought to challenge DOE's actions, and Defendants have failed to show that

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[28] *Keller*, 205 P.3d at 302.
[29] *Id.; See also, Carpenter v. Hammond,* 667 P.2d 1204, 1210 (Alaska 1983) (finding citizen-taxpayer standing for a non-resident plaintiff even though a resident and voter of the House District in question would theoretically have been more interested in the litigation, because no such person had filed suit); *Coghill v. Boucher,* 511 P.2d 1297, 1304 (Alaska 1973) (finding citizen-taxpayer standing for registered voters and poll watchers despite the fact that candidates or political parties might be more interested in challenging the vote-counting procedures at issue, because such potential litigants had not filed suit).
[30] 239 P.3d 1252, 1565-56*; accord, Keller*, 205 P.3d at 304 (declining to find citizen-taxpayer standing for the *Keller* plaintiffs where there was "no indication" they could be negatively impacted by the challenged conduct.) *See also Wagstaff*, 535 P.2d at 1225 (finding that citizen-taxpayer standing cannot be conferred on a plaintiff with no "injury in fact" which reflects the "requirement that a person be 'adversely affected' or 'aggrieved', and it serves to distinguish a person with a direct stake in the outcome of litigation-even though small-from a person with a mere interest in the problem").
[31] *Law Project for Psychiatric Rights, Inc.* 239 P.3d 1252, 1565-56; *Keller*, 205 P.3d at 304; *Wagstaff*, 535 P.2d at 1225.

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any are likely to do so, Plaintiffs are appropriate plaintiffs to proceed on citizen-taxpayer standing.

B. All claims are ripe for review because the issues are fit for review and Plaintiffs will otherwise be subject to avoidable hardship.

Defendants do not contest that Plaintiffs' privacy claim is ripe; they only challenge the ripeness of Plaintiffs' list maintenance claims. [Mot. to Dismiss at 8-10.] Their arguments fail.

"The ripeness doctrine requires a plaintiff to claim that either a legal injury has been suffered or that one will be suffered in the future."[32] The ripeness analysis "fundamentally balances the need for decision against the risks of decision."[33] The need for a decision is a "function of the probability" that Plaintiffs' will suffer an anticipated injury; while the risks of decision are measured by "the difficulty and sensitivity of the issues presented, and by the need for further factual development to aid decision."[34] In other words, the Court balances the "fitness of the issues for judicial decision" and the "hardship to the parties of withholding court consideration."[35] This formulation allows for "varying degrees of concreteness" of injury depending on the need for a judicial decision.[36] For example, the court has adopted a "somewhat relaxed approach to justiciability" in the context of freedom of speech rights because of the "special

[32] *E.g.*, *Brause v. State, Dep't of Health & Soc. Servs*., 21 P.3d 357, 359 (Alaska 2001).
[33] *State v. Am. C.L. Union of Alaska*, 204 P.3d 364, 369 (Alaska 2009) (quoting *Brause*, 21 P.3d at 359.
[34] *Id.* at 372.
[35] *Id.* at 369.
[36] *Id.*

consideration traditionally afforded" to this fundamental constitutional right.[37]

Under the terms of the MOU, which is currently operative, Defendants have agreed that they "*will* . . . remov[e] ineligible voters" identified by DOJ within 45 days of being notified. [Am. Compl., Exh. D, at 5.] Defendants have thus already committed to remove voters from the VRL at DOJ's behest, against the protections and list-maintenance provisions of Alaska law. Conducting these improper voter removals on DOJ's say-so, as Defendants are required to do by operation of the express terms of the MOU, will cause Plaintiffs future injury. *See supra* Section A.1.

The injurious conduct at issue is required by the terms of the MOU entered into by Defendants and goes well beyond the "mere hypothetical."[38] Declining to adjudicate this concrete dispute now would force Plaintiffs to wait until they discover that DOE has taken further steps to "clean" Alaska's voter rolls under the MOU (*i.e.*, after it has already removed voters from the rolls), prejudicing Plaintiffs' members' fundamental rights to vote and due process, and requiring costly and burdensome emergency litigation in order to protect the rights of voters who may be facing disenfranchisement in advance of an election. Because the injury at issue is more than concrete enough for judicial consideration, and because delaying merits consideration now could lead to hardship and prejudice later, the ripeness doctrine is no barrier to reviewing Plaintiffs' list-maintenance claims.

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[37] *Id.* (citing *Alaska Right to Life Political Action Comm. v. Feldman*, 504 F.3d 840, 851 (9th Cir. 2007)).
[38] *Brause*, 21 P.3d at 359.

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C. Plaintiffs have stated cognizable privacy and list-maintenance claims.

Motions to dismiss are disfavored and a claim should not be dismissed "unless it appears beyond doubt that the plaintiff can prove no set of facts that would entitle [them] to relief."[39] Defendants cannot show that this standard is met here.

1. Defendants' disclosure of sensitive personal information to DOJ violates Plaintiffs' and their members' constitutional right to privacy.

The Alaska Constitution art. I, § 22 provides that "[t]he right of the people to privacy is recognized and shall not be infringed." The genesis of this constitutional right was a concern over the "potential of computers to aggregate personal data."[40] Indeed, the earliest form of the privacy clause included explicit provisions that called for the legislature to provide for "the protection and security of information available to the State to the extent necessary to protect the rights of the individual" and "for the protection and security of the information gathered under this section by the State."[41] While the House Judiciary Committee "opted to 'leave out the details'" and state the "'principles generally' . . . for 'easier administration,'"[42] this understanding informs the constitutional right to privacy.

Here, Plaintiffs' and their members' constitutional right to privacy has been significantly undermined by DOE's disclosure of sensitive personal information to DOJ.

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[39] E.g., *Bachner Co. Incorp. v. State*, 387 P.3d 16, 20 (Alaska 2016).
[40] *Doe v. Dep't of Pub. Safety*, 444 P.3d 116, 128 (Alaska 2019).
[41] *Valley Hosp. Ass'n, Inc. v. Mat-Su Coalition for Choice*, 948 P.2d 963, 969 (Alaska 1997) (citing 1972 Senate Joint Resolution No. 68, 7th Leg., 2d Sess).
[42] *Planned Parenthood of Alaska*, 35 P.3d at 37 (citing H. Jud. Comm. Minutes at 318–19, 7th Leg., 1st Sess. (May 30, 1972)).

In applying and enforcing the Alaska Constitution, the Supreme Court has held that the right to privacy applies if there is (1) a legitimate expectation of privacy and (2) a claim of a substantial infringement.[43] Defendants' assertion that disclosure to the federal government does "not constitute 'disclosure' for the purposes of the privacy clause" [Mot. to Dismiss at 13] runs counter to the primary purpose of the privacy clause—"the protection of personal privacy and dignity against unwarranted intrusions by the State."[44] Indeed, because the privacy risks posed by the aggregation of personal information in government databases was fundamental to the privacy clause's adoption, the wholesale disclosure of Alaska's unredacted VRL to the federal government falls squarely within the ambit of the constitutional protection.[45]

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a. Plaintiffs and their members have a legitimate expectation of privacy in the sensitive information in VRLs, including against unnecessary disclosure to other governmental entities.

A legitimate expectation of privacy is one that "society is prepared to recognize as reasonable."[46] Whether an expectation of privacy is legitimate is a fact-bound determination, and courts consistently consider the context of a disclosure to assess the legitimacy of an expectation of privacy. Thus, the "aggregation and accessibility" of information, taken together, can raise legitimate privacy concerns.[47] For example, courts

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[43] *Dep't of Pub. Safety*, 444 P.3d at 126-27.
[44] *Planned Parenthood of Alaska*, 35 P.3d at 37 (internal quotation marks omitted).
[45] *Dep't of Pub. Safety*, 444 P.3d at 128.
[46] *Id.* at 127.
[47] *Id.* at 127-30.

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have found legitimate expectations of privacy in one's name,[48] address and employment information[49] and work history[50] in specific contexts—despite this information being "willingly provided" or publicly available in other contexts. [Mot. to Dismiss at 11.]

Voter registration "implicates political thought and expression,"[51] and VRLs, which reflect a voter's decision to register and may include their voting history, party affiliation, as well as sensitive personal identifying information such as social security data, date of birth, or address, are thus uniquely sensitive.[52] Indeed, courts have found social security numbers to be an especially sensitive portion of VRLs due to the enormity of the harm that may result from improper disclosure.[53] VRL information is also uniquely sensitive because the improper disclosure of such information could burden or chill the right to vote, which is "fundamental to our concept of democracy" and "encompasses the right to express one's opinions and is a way to declare one's full membership in the political community."[54]

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[48] *Alaska Wildlife Alliance v. Rue*, 948 P.2d 976, 980 (Alaska 1997) (finding a legitimate expectation of privacy in public employees to their names "where there are credible threats against the lives of public employees and private contractors").
[49] *Dep't of Pub. Safety*, 444 P.3d at 128-29 (finding a legitimate expectation of privacy for sex offenders in their "address and employment information, when included in a [sex offender] compilation").
[50] *Jones v. Jennings*, 788 P.2d 732, 738 (Alaska 1990) (finding a legitimate expectation of privacy for police officers in their personnel files which "contain the most intimate details of an employee's work history").
[51] *Buckley v. Am. Const. L. Found.*, 525 U.S. 182, 195 (1999).
[52] *See Weber*, 816 F. Supp. at 1175-76.
[53] *Greidinger v. Davis*, 988 F.2d 1344, 1352-55 (4th Cir. 1993) (finding that, because disclosure of SSNs has a massive potential for harm, requiring voters to consent to disclosure of their SSN to vote substantially burdens the fundamental right to vote under the First and Fourteenth Amendments).
[54] *Dansereau v. Ulmer*, 903 P.2d 555, 559 (Alaska 1995).

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All these considerations support a reasonable expectation of privacy in the VRL. Alaska law expressly recognizes this expectation by establishing that certain VRL data, such as date of birth, any part of the social security number, the driver's license number, voter ID number, place of birth, and signature are "confidential" and "not open to public inspection."[55] Similarly, federal courts have consistently allowed for the redaction of personal information in voter files when construing the public inspection requirements of the NVRA, 52 U.S.C. § 20507(i).[56] Plaintiffs' and their members' reliance on the government to fulfill its obligations and keep their data confidential is entirely reasonable. Finding otherwise would undermine the public's trust in its government and imperil entire statutory schemes that Alaskans rely on to preserve their privacy.

DOE's reliance on AS 15.07.195(c)(1), which provides that the State *may* release otherwise confidential information to a federal government agency, is misplaced. [*See* Mot. to Dismiss at 13.] AS 15.07.195(c)(5), not subsection (c)(1), controls here. Subsection (c)(5) specifically considers when DOE may share confidential voter information for "the purpose of ensuring the accuracy of the state's voter registration list." It allows the Division to share this information for purposes of voter list maintenance *only* with "another state or organized group of states" and under specific

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[55] AS §§ 15.07.195(a)(1)-(6); *see also* (AS. 15.07.195(b) a voter may opt to keep their residential address confidential), *see also* Am. Compl. ¶ 45, n. 12; Mot. to Dismiss at p. 13.

[56] *Bellows*, 92 F.4th at 56 (1st Cir. 2024) ("nothing in the text of the NVRA prohibits the appropriate redaction of unique or highly sensitive personal information in the Voter File"); *Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 266-68 (4th Cir. 2021) (holding the possibility of erroneously labeling a voter as a noncitizen and subjecting them to public harassment warrants maintaining confidentiality of records).

information security management policies and procedures. *Id.* But subsection (c)(5) contains no exception for voter list maintenance-related disclosures of confidential voter information to the federal government. Here, then, the specificity of AS 15.07.195(c)(5) must "control over the more general statute" at AS 15.07.195(c)(1).[57] Indeed, if the general provisions of subsection (c)(1) allowed for the disclosure of voter information for list-maintenance purposes under any circumstances, then subsection (c)(5) would do no work at all.

Nor would it matter if the general provisions of AS 15.07.195(c)(1) did control here. Even under subsection (c)(1), confidential information may only be shared and used for "governmental purposes authorized under law." Numerous courts have held that the federal government's uses of state VRL data are *not* authorized by law.[58] And indeed, the

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[57] *Alaska USA Fed. Credit Union v. Sayer L. Grp., P.C.,* 579 P.3d 1176, 1180 (Alaska 2025)(apply the general/specific canon of statutory interpretation in finding that a "narrower and more specific" statute is intended to "modify" a more general statute).

[58] *See, e.g.*, *League of Women Voters v. U.S. Dep't of Homeland Sec.*, No. CV 25-3501 (SLS), 2026 WL 1784297 (D.D.C. June 22, 2026); *See also Weber*, 816 F. Supp. 1168; *United States v. Oregon*, No. 6:25-cv-1666-MTK, 2026 WL 318402 (D. Or. Feb. 5, 2026); *United States v. Benson*, 179 F.4th 470, 478-83 (6th Cir. 2026); *United States v. Thomas*, No. 3:26-CV-21 (KAD), 2026 WL 2070437, at *3 (D. Conn. July 17, 2026); *United States v. Oliver*, No. 1:25-cv-01193-JCH-JFR, 2026 WL 2031479 (D.N.M. July 14, 2026); *United States v. Koski*, No. 3:26CV42 (RCY), 2026 WL 2032532 (E.D. Va. July 14, 2026); *United States v. Warner*, No. 2:26-cv-156, 2026 WL 2018877 (D.W.V. July 13, 2026); *United States v. Bd. of Elections of the State of N.Y.*, No. 1:25-CV-1338-MAD/PJE, 2026 WL 1999921 (N.D.N.Y. July 10, 2026); *United States v. Scanlan*, No. 25-cv-371-JL, 2026 WL 1864054 (D.N.H. June 29, 2026); *United States v. Schmidt*, No. 2:25-cv-01481-CB, 2026 WL 1850016 (W.D. Pa. June 27, 2026); *United States v. DeMarinis*, No. SAG-25-3934, 2026 WL 1780586 (D. Md. June 18, 2026); *United States v. Wis. Elections Comm'n*, No. 25-cv-1036-jdp, 2026 WL 1430354 (W.D. Wis. May 21, 2026); *United States v. Bellows*, No. 1:25-cv-468-LEW, 2026 WL 1430481 (D. Me. May 21, 2026); *United States v. Fontes*, No. CV-26-66-PHX-SMB, 2026 WL 1177244 (D. Ariz. Apr. 28, 2026); *United States v. Amore*, No. 25-CV-639-MSM-PAS, 2026 WL

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power to maintain accurate voter registration lists in the first place rests solely with the states, not the federal government.[59] Voters thus have every reason to believe that the privacy of the sensitive personal information provided when registering to vote and contained in the VRL will be protected, as Alaska law and the Alaska Constitution require.

Furthermore, Plaintiffs have alleged that DOJ's collection of VRL data goes "beyond its stated purpose to create an unauthorized national voter database and to conduct criminal and immigration investigations." [Am. Compl. ¶ 2.] Indeed, as the federal district court found in response to DOJ's demands for Oregon's VRLs, "[t]he presumption of regularity that has been previously extended to [the United States] that it could be taken at its word—with little doubt about its intentions and stated purposes—no longer holds."[60] The aggregation of voter information in the hands of a government whose assurances and motivations can no longer be trusted opens Alaskan voters to potential criminal and immigration-related investigations and politically-motivated prosecutions.

b. Plaintiffs' and their members' legitimate expectations of privacy were substantially infringed by DOE's disclosure to DOJ.

Determining whether legitimate expectations of privacy are substantially infringed "depend[s] on a balance of interests."[61] When a government action impinges on the right

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1040637 (D.R.I. Apr. 17, 2026); *United States v. Galvin*, No. 25-13816-LTS, 2026 WL 972129 (D. Mass. Apr. 9, 2026).
[59] U.S. Const., Art. 1, Sec. 4, Clause 1; *see also,* 52 U.S.C. § 20507, 52 U.S.C. § 21083.
[60] *United States v. Oregon*, 2026 WL 318402 at *11.
[61] *E.g.*, *Sampson v. State*, 31 P.3d 88, 91 (Alaska 2001).

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to privacy, the state must show a "compelling interest and the absence of a less restrictive means to advance the interest."[62] Thus, even a state statute affirmatively requiring disclosure of personal information may violate the constitutional right to privacy if the reasons supporting the statute are not sufficiently compelling or if there is a less restrictive means to achieve the same goal.[63]

Here, the allegations in the complaint amply support a conclusion of substantial infringement on Alaskans' privacy rights. Plaintiffs allege that DOJ is obtaining the VRL data not only for voter list maintenance but also to "create an unauthorized national voter database" and to "conduct criminal and immigration investigations." [Am. Compl. ¶ 2.] Regarding voter list maintenance, DOE has previously acknowledged that such data sharing is not necessary to comport with the requirements of the NVRA. [Am. Compl. ¶ 20.] Furthermore, DOE can have no legitimate interest in advancing DOJ's illegitimate ends. Defendants fail to acknowledge the alleged "ulterior motives" of the DOJ [Am. Compl. ¶ 2], all of which are extensively documented in the public record,[64] by simply claiming that DOJ will "use the information only for governmental purposes authorized under law." [Mot. to Dismiss at 13.] But *Defendants'* apparent willingness to trust DOJ with Alaskans' sensitive data is irrelevant to whether Plaintiffs have pleaded a privacy

[62] *Id.* at 91; *see also Dep't of Pub. Safety*, 444 P.3d at 131.
[63] See, *Alaska Wildlife All.,* 948 P.2d at 980 ("[U]nder appropriate circumstances, a statute requiring the disclosure of a person's identity must yield to the constitutional right to privacy.*)*; *see also, Falcon v. Alaska*, 570 P.2d 469, 480 (Alaska 1977).
[64] *See, e.g.*, *Weber*, 816 F. Supp. at 1194; *Oregon*, 2026 WL 318402 at *11-12; *United States v. Schmidt*, 2026 WL 1850016 at *2-3; *United States v. Warner*, 2026 WL 2018877 at *7.

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violation.

Plaintiffs point to the numerous failed attempts by DOJ to gain control of other states' VRLs in federal courts, as well as the federal government's recent history of mishandling sensitive personal data, to highlight the risks caused by DOE's disclosure to Alaskans' privacy and data security. [Am. Compl. ¶¶ 4, 8.] Defendants never grapple with the specific allegations regarding DOJ's improper goals or its mismanagement of voter and other data. And they never explain why the disclosure of the unredacted VRL is necessary for legitimate list maintenance purposes or otherwise justified under the circumstances. If successful, DOE's attempt to gain dismissal without engaging with the factual allegations supporting a privacy violation, based solely on a paper-thin assurance from DOJ, would render the broad protections that the privacy clause confers on Alaskans a dead letter.[65] Alaskans' fundamental right to privacy requires far more.

c. Federal courts have interpreted analogous privacy rights to protect against intergovernmental disclosure.

Moreover, construing Alaska's constitutional right to privacy to permit the free flow of personal records to another sovereign would make it *narrower* than the right to privacy recognized by the U.S. Constitution, an inconceivable outcome given that the Alaska Supreme Court has specifically recognized that Alaska Constitution's guarantee of privacy "is broader in scope than that of the Federal Constitution."[66]

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[65] *Anchorage Police Dep't Empls. Ass'n v. Mun. of Anchorage*, 24 P.3d 547, 556 (Alaska 2001) (quoting *Ravin v. State*, 537 P.2d 494, 514-15 (Alaska 1975)).
[66] *Myers v. Alaska Psychiatric Inst.*, 138 P.3d 238, 245 (Alaska 2006), citing *Anchorage Police Dep't Employees Ass'n,* 24 P.3d at 550 (quoting *Ravin,* 537 P.2d at 514–15).

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Federal courts have long affirmed that the right to information privacy is infringed when a government agency or official acquires sensitive personal records without sufficient legal basis.[67] That is so even when a wrongful disclosure of sensitive personal information occurs *within the same government*—let alone when personal records are disclosed by one sovereign to another.[68] It would contradict decades of Alaska Supreme Court precedent to hold that Alaskans, in establishing their own constitutional safeguard against intrusions on their privacy, nevertheless intended for it to exclude inter- or intragovernmental disclosures of personal information covered by the U.S. Constitution's right to informational privacy.[69]

Federal courts have similarly affirmed that the wrongful disclosure of sensitive personal information to other government personnel constitutes a privacy injury sufficient for Article III standing. Just recently the Fourth Circuit, addressing claims that the Social Security Administration unlawfully disclosed social security numbers and other personal data to members of the U.S. DOGE Service, explained that such a disclosure worked a

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[67] *See, e.g.*, *Thorne v. City of El Segundo*, 726 F.2d 459, 468 (9th Cir. 1983) (holding that "the individual interest in avoiding disclosure of personal matters" protected by the U.S. Constitution was violated by a municipal police department questioning a job applicant about her sexual history); *Aid for Women v. Foulston*, 441 F.3d 1101, 1116 (10th Cir. 2006) (quoting *Eastwood v. Dep't of Corr. of Okla.*, 846 F.2d 627, 630 (10th Cir. 1988)) (the U.S. Constitution's right to informational privacy "protects the individual from governmental inquiry into matters in which it does not have a legitimate and proper interest").

[68] *See Hancock v. Cnty. of Rensselaer*, 882 F.3d 58, 69 (2d Cir. 2018) (noting that the wrongful accessing of public employees' medical records by a fellow employee is "exactly" the "type of abuse of state power that protecting the [Fourteenth Amendment] zone of privacy is meant to guard against").

[69] *See, e.g., Myers,* 138 P.3d at 245.

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harm sufficiently analogous to the common law privacy tort of intrusion upon seclusion to be constitutionally cognizable.[70] Alaska's constitutional right to privacy prohibits such an intrusion upon Alaskans' reasonable expectation of privacy.

2. Defendants' agreement to remove voters from the VRL according to timelines and processes not authorized by law threatens to violate Alaskans' voting rights and Due Process rights.

Plaintiffs have also stated cognizable list-maintenance claims sufficient to survive a Rule 12(b)(6) dismissal.[71] DOE agreed in the MOU it signed that DOJ would conduct "analysis and assessment" of Alaska's VRL and that DOJ would inform the state of "any voter list maintenance issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns" identified by DOJ. [Am. Compl., Exh. D, at 5.] Defendants further agreed to "clean its VRL/Data by removing ineligible voters". . . "within forty-five (45) days of receiving [] notice" from DOJ. *Id.* The MOU further defines "NVRA and HAVA compliance" as the "state's VRL only includ[ing] eligible voters." *Id.*

Defendants have thus agreed to removal of voters contrary to the terms of both Alaska and federal law. [Am. Compl. ¶¶ 31-39]. The terms of the Alaska Statutes governing voter list maintenance[72] and thereby the Due Process and voting protections of the Alaska Constitution[73] contemplate the continued *inclusion* of ineligible voters on the

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[70] *Am. Fed'n of State, Cnty. & Mun. Emps., AFL-CIO v. Soc. Sec. Admin.*, 172 F.4th 361, 370 (4th Cir. 2026).
[71] *See, Bachner Comp. Inc.,* 387 P.3d at 20 ("Because motions to dismiss are disfavored, 'a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts that would entitle him or her to relief.'").
[72] *See* AS § 15.07.130.
[73] *See, e.g.*, *Lake and Peninsula Borough Assembly v. Oberlatz*, 329 P.3d 214, 219–20 (Alaska 2014).

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VRL for a period to protect eligible voters from erroneous removal. This aligns with similar requirements expressly contemplated by the NVRA and HAVA[74] Despite these statutory requirements, Defendants have agreed to the removal of purportedly ineligible voters within 45 days upon receiving notice from DOJ.

DOE does not claim that removing Alaska voters from the rolls within 45 days of the federal government's say-so would be proper. Instead, it relies on the MOU's severability clause in section XXII.B to argue that the MOU should not be read to mean *exactly* what it says about removing supposedly ineligible voters within 45 days of their identification by DOJ. [Mot. to Dismiss at 14-15.] This severability clause generically provides that "[n]othing in this MOU is intended to conflict with current law or regulation or the directives of Department, or the [sic] your state" and that "[i]f a term of this MOU is inconsistent with such authority, then that term shall be invalid." [Am. Compl., Exh. D, at 8.]

Defendants' insistence that the MOU's severability clause overrides the substantive terms of the agreement is contrary to how courts interpret such catchall clauses. If inclusion of such severability or savings clauses, which contemplate interpretations consistent with law, precluded courts from assessing whether the underlying substantive terms of the contract in fact violated the law, then judicial review of such agreements would become "a meaningless exercise, precluding resolution of the

[74] *See* 52 U.S.C. § 20507(d) (requiring the inclusion of voters who may have changed residence for two federal election cycles after they have been provided notice of pending removal from the voter rolls); 52 U.S.C. § 21083(a)(2)(A)(i) (HAVA reaffirming that the statutory requirements of the NVRA for list maintenance continue to apply).

critical legal issues."[75] For that reason,"[t]he Supreme Court has long rejected interpretations of sweeping saving clauses that prove absolutely inconsistent with the provisions of the act in which they are found."[76] Here, Section VIII, which clearly requires the removal of supposedly ineligible voters inconsistent with the requirements of Alaska and federal law, "cannot possibly be implemented consistent with applicable law," rendering the saving clause "meaningless."[77]

That analysis is sufficient to determine that Plaintiffs have plausibly stated their voter list maintenance claims such that they survive the present motion to dismiss. But additional extrinsic evidence further demonstrates that Plaintiffs' interpretation of the MOU is the correct one.[78] Other states refused to enter into identical MOUs with DOJ because "the 45-day deadline in Section VIII to remove voters identified by the Justice Department contradicts the same laws the MOU seeks to enforce."[79] DOJ also refused to negotiate with states regarding the problematic 45-day removal provision.[80] And while it

[75] *City & Cnty. of S.F. v. Trump*, 897 F.3d 1225, 1240 (9th Cir. 2018).
[76] *California v. Trump*, 786 F. Supp. 3d 359, 381 (D. Mass. 2025) (quoting *Atl. Richfield v. Christian*, 590 U.S. 1, 23 (2020) (quotation omitted)).
[77] *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 176 (D.D.C. 2025).
[78] *See Graham v. Municipality of Anchorage*, 446 P.3d 349, 353 (Alaska 2019)("To interpret a contract, we also consider relevant extrinsic evidence such as the "language and conduct of the parties, the objects sought to be accomplished[,] and the surrounding circumstances at the time the contract was negotiated.")
[79] *See* Letter from Tenn. Sec'y of State Tre Hargett and Coordinator of Elections Mark Goins to U.S. Dep't of Justice Civil Rights Division (Dec. 18, 2025) (explaining that Tennessee could not enter into the MOU because the substantive terms of the agreement violated law), *available at* https://www.tennessean.com/story/news/politics/2026/01/09/tennessee-voter-data-doj/88072297007/.
[80] *See id.*

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is certainly the case that contracts are interpreted to give effect to the "reasonable expectations of the parties," here, further extrinsic evidence demonstrates that the expectation of DOJ is that voters will be removed by states upon its identification of them as purportedly ineligible.[81]

Mere insistence by a party that it will not carry out the conduct it has agreed to undertake cannot deprive litigants of review. Defendants' argument that the list-maintenance claims should be dismissed because they have unilaterally stated that they will not improperly remove voters [Mot. to Dismiss at 2, 14-15], after having agreed to do just that, is akin to voluntary cessation. But "a defendant's voluntary cessation of a challenged practice does not deprive a . . . court of its power to determine the legality of the practice."[82] DOE has agreed to an unlawful course of conduct that threatens the rights of Alaska voters. This Court is in no way barred from hearing Plaintiffs' challenge to that unlawful arrangement.

Conclusion

For the foregoing reasons and those discussed in Plaintiffs' Amended Complaint, Plaintiffs respectfully request this Court to deny the State's Motion to Dismiss in its entirety.

RESPECTFULLY SUBMITTED at Anchorage, Alaska this 23 day of July 2026.

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[81] *See* Mot. for Emergency Ruling, *United States v. Raffensberger*, No. 26-cv-485 (N.D. Ga. June 3, 2026), Dkt. No. 117 (arguing for expedited ruling on the grounds that receipt of Georgia's VRL is needed before the November election for identification and removal of supposed ineligible voters).

[82] *Slade v. State, Dep't of Transp. & Pub. Facilities*, 336 P.3d 699, 700 (Alaska 2014) (citation omitted).

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