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

LEAGUE OF WOMEN VOTERS OF
ALASKA, ALASKA BLACK
CAUCUS, and ALASKA PUBLIC
INTEREST RESEARCH GROUP,

Plaintiffs,

vs.

NANCY DAHLSTROM, in her official
capacity as Lieutenant Governor for the
State of Alaska and CAROL
BEECHER, in her official capacity as
Director of the Alaska Division of
Elections

Defendants,

Case No. 3AN-26-06319CI

REPLY IN SUPPORT OF STATE'S MOTION TO DISMISS

I. Introduction

Plaintiff organizations are upset that the Alaska Division of Elections agreed to share the state's voter registration list (VRL) with the United States Department of Justice (DOJ). But their political disagreement with the decision to cooperate with the DOJ and their suspicion of the current federal administration do not suffice to sustain their legal complaint against the defendants. They lack standing to assert the constitutional privacy rights of voters and, in any event, disclosing names, dates of birth, addresses, and drivers' license numbers or the last four digits of social security numbers to the federal government does not constitute a violation of Alaska's privacy clause. Their list maintenance claims are not ripe; and the MOU does not provide a viable cause of action. The Amended Complaint should be dismissed in its entirety.

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II. Argument

A. The plaintiffs lack standing to bring the privacy claim.

The plaintiffs assert that they “have multiple forms of standing” to bring the privacy claim, including associational standing, interest-injury standing, and citizen-taxpayer standing. [Opp. at 4-12] But this claim does not withstand scrutiny.

1. The plaintiffs have not established that privacy rights are “germane to the[ir] organization[s]’ purpose” so as to confer associational standing.

The State argued in its motion to dismiss that the plaintiff organizations¹ had not alleged that protecting constitutional privacy rights, or indeed any privacy interests, was “germane” to their purposes—a key component of associational standing. [Mot. at 8] In response, the plaintiffs do not seriously contest this point. Instead, they argue that voter privacy is “critical to election integrity in the United States” and that this, combined with their interest in elections, is sufficient to give them standing to assert claims based on the alleged violation of voters’ right to privacy. [Opp. at 5]

To support the connection between voter privacy and election integrity, they cite—not allegations from the Amended Complaint or any of their own activities—but an amicus brief filed in the First Circuit in a case involving possible disclosure of voter

¹ Plaintiffs correctly note that the State omitted mention of plaintiff Alaska Public Interest Research Group in its motion. This was due to a filing error resulting from email service of the Amended Complaint on counsel prior to entry of appearance. The State’s argument about the lack of allegations establishing an organizational purpose related to privacy rights applies equally to AKPIRG however.

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data to a private organization.² The State doubts that this is an appropriate source at the motion to dismiss stage of litigation,³ but even if it is, the “voter intimidation, bribery, and harassment” [Opp. at 5] that the brief describes dates from the era before the introduction of the *secret ballot* and was used as context for the brief’s assertion that “[a]llowing organizations to widely publish voters’ party affiliation and voting history is tantamount to disclosing who they voted for.”⁴ If the plaintiffs genuinely believed that voter privacy related to this information was critical to their mission, they would presumably be able to point to organizational activities prior to this litigation seeking to tighten Alaska’s rules regarding the confidentiality of voter information, because both party affiliation and voting history are currently *public* information under Alaska law.⁵

The plaintiffs also claim that “[c]ourts have consistently held that the centralization of sensitive voter information by the federal government would ‘have a

² *Brief of the Electronic Privacy Information Center as Amicus Curiae in Support of Defendant*, 2023 WL 4312121, *Public Interest Legal Foundation Inc. v. Bellows*, 92 F.4th 36 (1st Cir. 2024).

³ *See e.g., Mitchell v. Bering Strait Sch. Dist.*, 586 P.3d 672, 679 (Alaska 2026) (When a superior court considers a motion to dismiss, it must consider only the complaint.”).

⁴ *Id.* at 4, 7.

⁵ *See e.g.* AS 15.07.127 (“The director shall prepare both a statewide list and a list by precinct of the names and addresses of all persons whose names appear on the master register *and their political party affiliation*. Subject to the limitations of AS 15.07.195, *any person may obtain a copy of the list*, or a part of the list, or an electronic format containing both residence and mailing addresses of voters, by applying to the director...” (emphasis added)); AS 15.07.195 (identifying confidential information in state voter registration records, which does not include party affiliation or voting history).

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chilling effect on voter registration which would inevitably lead to decreasing voter turnout...” [Opp. at 5-6] But they cite only *one* court decision for this proposition, and the language they rely on is not the court’s holding, but rather the court’s speculation about the possible impact of “the centralization of [voter] information by the federal government” in the conclusion of an order granting a motion to dismiss.⁶ And, again, to the extent that this is a genuine concern for plaintiff organizations, it is strange that they can point to no evidence showing their interest in voter privacy before this lawsuit.

Associational standing requires a showing that the “interests [the organization] seeks to protect are germane to the organization’s purpose.”⁷ But the plaintiffs have failed to show any past organizational interest in privacy, not even voter privacy, and therefore they have failed to establish associational standing to assert the privacy rights of voters.

2. The plaintiffs have not established interest-injury standing.

The State pointed out in its motion to dismiss that because the organizations do not themselves register to vote they have not been injured by the defendants’ decision to share voter data with the federal government. [Mot. at 4-5] The plaintiffs respond that this is “absurdly literal” and that they “have their own interests and missions that are adversely affected by DOE’s actions. Interests which Defendants fail to address.” [Opp.

⁶ See *United States v. Weber*, 816 F.Supp.3d 1168 at 1195-98 (C.D. Cal. 2026). The plaintiffs also cite the same decision at 1175-76, which contains similar speculation from the court’s introduction. Given the procedural posture of the case, the court was not making factual findings about anything.

⁷ *Alaskans for a Common Language, Inc. v. Kritz*, 3 P.3d 906, 915 (Alaska 2000).

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at 9] But the plaintiffs describe these “interests” as an 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.” [Opp. at 8] These interests cannot support interest-injury standing for the privacy claim in this case.

“Alaska’s civic health and the state of democratic engagement in Alaska,” while important, are incredibly amorphous concepts. And the impact of sharing Alaska’s VRL with the DOJ on these interests is impossible to assess, making this a far less plausible claim than a commercial fisherman’s assertion that the sale of offshore oil and gas leases had an adverse impact on his economic interest in “the biological productivity of the bay”⁸ or an Alaska resident’s claim that the State’s predator control program had an adverse impact on her interest in bear viewing.⁹ [Opp. at 7-8]

The sharing of voter data with the DOJ does not prevent citizens from registering to vote or voting. The plaintiffs appear to compare their situation with that of Planned Parenthood of Alaska when it challenged a law requiring parental consent for a minor’s abortion. [Opp. at 9, n. 22]¹⁰ But the parental consent law directly prohibited Planned Parenthood from providing abortion care to minors without their parents’ consent. The plaintiffs here have not identified any remotely comparable impact of the defendants’ actions on their activities.

⁸ See *Moore v. State*, 553 P.2d 8, 24 (Alaska 1976).

⁹ *Bittner v. Bd. Of Game*, 563 P.3d 1123, 1128 (Alaska 2025).

¹⁰ See *State v. Planned Parenthood of Alaska*, 35 P.3d 30, 34 (Alaska 2001).

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Moreover, the Amended Complaint alleges that “[b]y disclosing *Plaintiffs*’ personal information, along with all Alaska’s voters’ information, including their full name, date of birth, residential address, his or her state driver's license number or the last four digits of their social security number to DOJ, Defendants violated *Plaintiffs*’ constitutionally protected right to privacy.” [Am. Compl. at ¶ 46] But the plaintiffs here—as organizations, not individual voters—simply do not have a privacy interest in the VRL. The court should reject their argument that they can establish interest-injury standing on the back of speculation about the impact of defendants’ actions on “Alaska’s civil health.”

3. The plaintiffs lack citizen-taxpayer standing to bring the privacy claim.

Finally, the plaintiffs assert that they meet the requirements for citizen-taxpayer standing. [Opp. at 9] They do not.

The State argued that the plaintiffs were not “appropriate plaintiffs” as required for citizen-taxpayer standing, because voters whose data was part of the VRL were “potential plaintiffs more directly affected by the challenged conduct.”¹¹ In response,

¹¹ *Keller v. French*, 205 P.3d 299, 302 (Alaska 2009).

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the plaintiffs rely on in apposite twentieth century precedents¹² to argue that the third prong of the test for appropriateness—whether there is another potential plaintiff who has sued or was likely to sue—cannot “strip an *otherwise appropriate* plaintiff of citizen-taxpayer standing.” [Opp. at 9] But this suggestion that the third prong of the test does no meaningful work is directly contradicted by more recent precedents holding that plaintiffs who meet the first two parts of the test nevertheless do not have citizen-taxpayer standing because there are other potential plaintiffs more directly affected.¹³

The plaintiffs also muddle interest-injury standing and citizen-taxpayer standing in an attempt to distinguish *Law Project for Psychiatric Rights, Inc. v. State*, suggesting that LPPR “could not establish citizen-taxpayer standing because it was not directly affected by the challenged conduct.” [Opp. at 11] But *LPPR* is directly on point, despite the plaintiffs’ claim that they have been “adversely affected.” [Opp. at 11]

¹² The plaintiffs’ best case is *Trustees for Alaska v. State*, 736 P.2d 324 (Alaska 1987), but that case is distinguishable. There, the potential plaintiff with a more direct interest was the Attorney General of the United States, who had not sued and did not seem likely to; and, additionally, the Attorney General’s interest in the suit was not just different, but directly contrary to Trustees’ interest. *Id.* at 330. The plaintiffs also cite *Carpenter v. Hammond*, 667 P.2d 1204 (Alaska 1983), where the discussion of citizen-taxpayer standing is dicta, because the Court had already found that Carpenter had standing by virtue of Art. VI, Section 11 of the Alaska Constitution. *Id.* at 1209 (“We hold that Article VI, section 11 of the Alaska Constitution is dispositive of the standing issue...”); and *Coghill v. Boucher*, 511 P.2d 1297 (Alaska 1973), which held that the plaintiffs had standing as “interested persons” under the APA and does not mention citizen-taxpayer standing at all. *Id.* at 1304.

¹³ See e.g. *Keller v. French*, 205 P.3d 299 (Alaska 2009); *Law Project for Psychiatric Rights, Inc. v. State*, 239 P.3d 1252 (Alaska 2010).

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The Amended Complaint asserts violation of the right to privacy through the disclosure of voter data. The plaintiff organizations do not register to vote thus the disclosure did not include organizational data. They are therefore attempting to vindicate the constitutional rights of others. And those others—Alaskan voters—are more directly affected and could sue.

The Alaska Supreme Court has “held that litigants generally lack standing to assert the constitutional rights of others.”¹⁴ As the Court explained in *LPPR*: “In *Keller v. French* the plaintiffs attempted to rely on citizen-taxpayer standing to assert the personal constitutional rights of a small number of third parties involved in a legislative investigation. There, however, ‘[w]e decline[d] to allow the use of citizen-taxpayer standing as a substitute for third party standing.’”¹⁵ That is what the plaintiffs here are attempting to do. And this Court should follow *Keller* and *LPPR* by rejecting the plaintiffs’ claims to citizen-taxpayer standing because there are hundreds of thousands of potential plaintiffs who have been directly affected by the challenged conduct and could bring suit to make the privacy claim alleged in the Amended Complaint.

B. The list maintenance claims are not ripe.

The Amended Complaint alleges violations of the right to vote, due process, and Alaska’s list maintenance statutes based on the plaintiffs’ reading of the MOU. [Am. Compl. at ¶¶ 47-61] But the Amended Complaint does not allege that the defendants

¹⁴ *Tuluksak Native Community v. Department of Health and Social Services*, 530 P.3d 359, 380 (Alaska 2023).

¹⁵ *LPPR*, 239 P.3d at 1255.

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have *acted* consistent with the plaintiffs’ reading of the MOU, because they have not. Moreover, the defendants have clearly stated that they will engage in list maintenance only consistent with the requirements of state and federal law. [Am. Compl. at 30, Ex. E; ¶ 40]

Because the DOJ has not yet sent the defendants any information about Alaska voters, they have not yet acted in furtherance of the MOU, and as a result, the plaintiffs’ claims related to list maintenance are not ripe.

The plaintiffs argue that the “injurious conduct at issue is required by the terms of the MOU entered into by Defendants and goes well beyond the ‘mere hypothetical’” and claim that the “injury is more than concrete enough for judicial consideration.” [Opp. at 13] This is plainly wrong.

In assessing ripeness, the court must “balance ‘the fitness of the issues for judicial decision’ with ‘the hardship to the parties of withholding court consideration[,]’” including whether “concrete factual scenarios” would assist in reaching an ultimate resolution.¹⁶ Unless and until the defendants initiate any list maintenance activities under the MOU, this Court will lack the factual record necessary to evaluate whether the defendants have violated either the Alaska statutes or voters’ constitutional rights, *even if the defendants comply with the MOU as the plaintiffs read it*. One simple example illustrates this: the Amended Complaint recognizes that voters

¹⁶ *Borer v. Eyak Corporation*, 507 P.3d 49, 58 (2022) (quoting *Brause v. State, Dep’t of Health & Soc. Servs.*, 21 P3d 357, 359 (Alaska 2001))

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may be immediately removed from the voter list if they die or are convicted of a disqualifying felony. [Am. Comp. at ¶¶ 32-33] Suppose the DOJ notifies the defendants of “insufficiencies, inadequacies, deficiencies, anomalies, or concerns”¹⁷ with Alaska’s VRL in the form of the names of voters who are deceased or have been convicted of a disqualifying felony and the defendants remove those voters’ names from the rolls within 45 days. The defendants will have complied with the MOU *and* state and federal law; and they will not have violated any voters’ constitutional rights.¹⁸ The Amended Complaint expressly concedes this. [Am. Compl. at ¶ 56]

Another possible future could be one where the DOJ never notifies the defendants of any “insufficiencies, inadequacies, deficiencies, anomalies, or concerns”¹⁹ with Alaska’s VRL and as a result, the defendants are never called upon to do any list maintenance under the terms of the MOU. Yet another possibility is that the defendants will *do exactly what they have consistently said they will do* and perform any list maintenance activities that result from sharing the VRL with the DOJ in accordance with state and federal law.²⁰ Either of these scenarios will likewise comply with the MOU and state and federal law and not violate any voters’ constitutional rights.

¹⁷ See Complaint, Ex. D at 5.

¹⁸ States may remove voters who have died or been convicted of a disqualifying felony under state law. See 52 USC 20507(a)(3)(B) and a(4)(A). States may do so systematically, even within 90 days of a federal election. See 52 USC 20507(c)(2)(B)(i).

¹⁹ See Complaint, Ex. D at 5.

²⁰ See *id.* at 8 and Letter from Lt. Governor Dahlstrom, Complaint Ex. E.

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Because the current situation presents a “factual vacuum,”²¹ this case is a paradigmatic example of one that is not fit for decision. Any ruling this Court could make would be based on a series of assumptions about what might happen in the future and would be entirely advisory in nature. The Court should dismiss the list maintenance claims because they are not ripe.

C. Sharing voters’ names, birthdates, addresses, and the last four digits of their social security number or their driver’s license number with the U.S. Department of Justice does not violate their right to privacy.

In their motion to dismiss, the defendants argued that the information included in the VRL is not the type of “sensitive personal information” that is protected by the constitutional right to privacy; [Mot. at 10-12] and that sharing the data in the VRL did not constitute the kind of disclosure of the information that amounts to a “substantial infringement”²² of voters’ privacy. [Mot. at 12-14] In response, the plaintiffs recognize that “[w]hether an expectation of privacy is legitimate is a fact-bound determination,” and cite a variety of cases with very different facts from the current situation in an attempt to establish that voters have a reasonable expectation of privacy in their voter data. None of these are persuasive.

For example, in *Alaska Wildlife Alliance v. Rue*, the Alaska Supreme Court held that “where there are *credible threats against the lives* of public employees and private contractors, their expectation that the state will protect them by not disclosing their

²¹ *Borer*, 507 P.3d at 63

²² *Doe v. Dep’t of Public Safety*, 444 P.3d 116, 126-27 (Alaska 2019).

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names [in response to a Public Records Act request] is legitimate.”²³ Similarly, in *Doe v. Department of Public Safety*, the Court held that Alaska’s privacy clause protected sex offenders from the public disclosure on the internet of their addresses and places of employment because “[w]idespread publication of their conviction and personal details subjects them to community scorn and leaves them vulnerable to harassment and economic and physical reprisals.”²⁴ Here, there are no allegations of potential violence or, indeed, any specific tangible harm to voters that might result from sharing the VRL data with the DOJ.²⁵ And the plaintiffs make no attempt to explain how the information at issue here meets the Alaska Supreme Court’s definition of “sensitive personal information” as information “which, if disclosed even to a friend, could cause embarrassment or anxiety,”²⁶ or “could cause ... humiliation, harassment, or economic and physical reprisals.”²⁷

The plaintiffs also misread the confidentiality statute, AS 15.07.195, arguing that subsection .195(c)(1)’s authorization for the division to share confidential voter information with the federal government does not apply. [Opp. at 17] They suggest instead that subsection (c)(5) “controls here,” and that the statute limits the division’s

²³ 948 P.2d 976, 980 (Alaska 1997).

²⁴ *Doe*, 444 P.3d at 128.

²⁵ The plaintiffs also cite *Jones v. Jennings* for the proposition that people have a legitimate expectation of privacy in their “work history,” even though the Court in that case found no violation of Jones’s privacy in the disclosure of his personnel records in discovery. 788 P.2d 732, 733 (Alaska 1990).

²⁶ *DeNardo v. ABC Inc. RVs Motorhomes*, 51 P.3d 919, 928 (Alaska 2002).

²⁷ *Doe*, 444 P.3d at 127.

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authority to share data for list maintenance purposes “only” to “another state or organized group of states.” [Opp. at 17] But AS 15.07.195 contains no such limiting language. And as the legislative history shows, subsection (c)(5) was added in 2016 specifically to authorize Alaska’s participation in the Electronic Registration Information Center (ERIC) for the purpose of improving the accuracy of Alaska’s voter VRL.²⁸ Because ERIC is a “non-profit corporation governed by a board of directors made up of member-states,”²⁹ not “a local, state, or federal government agency,” subsection (c)(1) did not permit sharing Alaska’s voter data with ERIC. Subsection (c)(5) is thus not a “more specific” provision, but rather identifies an additional authorized disclosure of confidential VRL data. Subsection (c)(1) is thus applicable here and authorizes the division to share confidential information with a “federal government agency.” Given this statutory permission, the plaintiffs’ claim that voters could have a “reasonable expectation” that their information would not be shared with the federal government is not supported by the statute.

The plaintiffs also argue that AS 15.07.195(c)(1) does not apply because it only authorizes sharing confidential voter information with a federal agency as long as “the agency receiving information under this paragraph may use the information only for governmental purposes authorized under law.” [Opp. at 18] According to the plaintiffs,

²⁸ See Letter from Lt. Gov. Mead Treadwell to Rep. Bob Lynn, January 25, 2016 in support of Senate Bill 9 at 1, available at https://www.akleg.gov/basis/get_documents.asp?session=29&docid=29350

²⁹ See handout describing ERIC, among documents for SB 9, 29th Legislature, available at https://www.akleg.gov/basis/get_documents.asp?session=29&docid=29348

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“[n]umerous courts have held that the federal government’s uses of state VRL data are not authorized by law.” [Opp. at 18] But the cases they cite resulted from DOJ litigation to *force* reluctant states to hand over their voter registration lists, and they hold that the federal statutes DOJ relied on—the National Voter Registration Act, the Help America Vote Act, and the Civil Rights Act of 1960—do not *require* states to do so.³⁰ They do *not hold* that willing states are prohibited from working with the federal government by providing VRL data when permitted by their laws, such as AS 15.07.195(c)(1).

Plaintiffs turn finally to the requirement that legitimate expectations of privacy be “substantially infringed,” suggesting that this “depend[s] on a balance of interest,” [Opp. at 19³¹] and that strict scrutiny applies to any privacy claim. [Opp. at 19-20] This is not the law. Indeed, the case that plaintiffs cite—*Sampson v. State*—recognized that strict scrutiny is appropriate only “[w]hen the state encroaches on fundamental aspects of the right to privacy or liberty,” but that when “governmental action interferes with an individual’s freedom in an area that is not characterized as fundamental, a less stringent test is ordinarily applied.”³² And the *Sampson* court applied that less stringent standard to the plaintiffs’ claim that Alaska’s right to privacy encompassed the right to physician-assisted suicide.³³

³⁰ See e.g., *United States v. Schmidt*, No. 2:25-cv-01481-CB 2026 WL 1850016 (W.D. Pa. June 27, 2026).

³¹ Citing *Sampson v. State*, 31 P.3d 88, 91 (Alaska 2001).

³² *Id.* at 92.

³³ *Id.* at 95-96.

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The right to privacy in the information at issue here—names, birth dates, addresses, and drivers’ license numbers or the last four digits of their social security numbers—which the plaintiffs concede is often “‘willingly provided’ or publicly available in other contexts” [Opp. at 16] simply does not rise to the level of a fundamental right.

Because the plaintiffs cannot establish that voters’ privacy rights were “substantially infringed” by sharing these generally innocuous and often already public bits of information about them with the federal government, they rely instead on speculation about the allegedly nefarious purposes for which they claim the DOJ sought Alaska’s VRL. [Opp. at 20-21] But these allegations cannot form the basis of the legal claim here—either the VRL contains the kind of “sensitive information” protected by the Alaska privacy clause, or it does not. DOJ’s motives may be relevant to the political debate over the defendants’ decision to share the data, but they cannot be tested in an Alaska state court, nor can they be critical to this Court’s analysis of voters’ privacy interests or the defendants’ conduct in turning over Alaska’s VRL.

The plaintiffs complain that the defendants “fail to acknowledge the alleged ‘ulterior motives’ of the DOJ, [Am. Compl. ¶ 2], all of which are extensively documented in the public record.” [Opp. at 20] But the public record they cite consists of legal decisions issued by courts *after* the defendants had shared Alaska’s VRL with the DOJ. Nor is it clear why the court should rely on unproven allegations about what the DOJ *might do* with voter information rather than the plain terms of the MOU—which indicates that DOJ will “test, analyze, and assess states’ VRLs for proper list

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maintenance and compliance with federal law”³⁴—when evaluating whether the defendants have violated voter’s privacy rights.

The plaintiffs end by referring to a variety of federal cases addressing information privacy under the federal constitution as authority for their claim that sharing the VRL must have violated Alaska’s stronger privacy protections. [Opp. at 22-23] But these cases only highlight how relatively non-sensitive the voter data at issue here is.

In *Thorne v. City of El Segundo*, the Ninth Circuit held that questions about a job applicant’s sexual history violated her constitutional privacy right to “avoid[] disclosure of personal matters.”³⁵ Similarly, *Eastwood v. Department of Corrections of State of Oklahoma* involved claims arising from intrusive questioning about the plaintiff’s sexual history in an investigation of a sexual assault.³⁶ *Aid for Women v. Foulston* involved a Kansas law requiring healthcare providers to report the consensual sexual activity of minors with age-mates, and the Tenth Circuit held that “Plaintiffs’ minor patients and clients have no right to privacy in their illegal sexual activity—even though information about that activity is ‘sensitive in nature’ and may stigmatize those minors if disclosed.”³⁷ In *Hancock v. County of Rensselaer*, county employees sued over unauthorized access to their medical records. And in *American Federation of State,*

³⁴ Complaint, ex. D at 2.

³⁵ 726 F.2d 459, 468 (9th Cir. 1983).

³⁶ 846 F.2d 627, 629 (10th Cir. 1988).

³⁷ 441 F.3d 1101, 1118 (10th Cir. 2006).

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County and Municipal Employees, AFL-CIO v. Social Security Administration, the issue was access not just to social security numbers and birth dates, but also “bank account numbers, tax information, medical history, and more.”³⁸

In sum, widely-available information about individuals—like their names, birth dates, and addresses—and government-assigned identifying numbers—like drivers’ license and social security numbers do not constitute the kind of sensitive personal information protected by the privacy clause, absent a specific showing of risk to individuals from the dissemination of such information. Moreover, voters do not have a reasonable expectation that the State will not share their voter data with other government agencies, like the DOJ, based on the confidentiality provisions of AS 15.07.195. Finally, disclosure of the VRL to the federal government does not constitute a “substantial infringement, as distinguished from a minimal one,”³⁹ of whatever privacy rights voters’ have in their VRL data, given that the federal government already has most, if not all,⁴⁰ of this information.

D. The plaintiffs erroneously assume that the MOU compels the defendants to violate the law.

The State pointed out in its motion to dismiss that the MOU it signed with the DOJ expressly provides that action under the agreement will be taken in accordance

³⁸ *American Federation of State, Cnty. and Municipal Employees, AFL-CIO v. Social Security Administration*, 172 F.4th 361, 365 (4th Cir. 2026).

³⁹ *Doe*, 444 P.3d at 127.

⁴⁰ The exception would be a voter’s drivers’ license number, but this information was provided only for voters for whom the division did not have the last four digits of the social security number.

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with state and federal law, citing the MOU’s severability clause.⁴¹ [Mot. at 14] In response, the plaintiffs suggest that this reading “is contrary to how courts interpret such catchall clauses.” [Opp. at 24] They note that “[t]he Supreme Court has long rejected interpretations of sweeping savings clauses that prove absolutely inconsistent with the provisions of the act in which they are found.” [Opp. at 25⁴²] There are two problems with this argument.

First, it is not true that complying with the terms of Section VIII will *necessarily* violate state or federal law—as explained above, the DOJ could identify deceased individuals and felons who could legally be removed from Alaska’s VRL within 45 days. Thus, the savings clause is not “absolutely inconsistent with” Section VIII.

Secondly, the plaintiffs rely on cases where litigation was brought to block the implementation of various presidential Executive Orders on the grounds that they violated the constitution. [Opp. at 25] And the courts held that savings clauses directing that the orders should be implemented “consistent with law” could not save unconstitutional executive orders from invalidation.⁴³ But this Court is not asked to evaluate the lawfulness of an executive order. Instead, this case involves an agreement between two parties, where the savings clause operates to protect the State from any argument by the DOJ that it is obligated to commit an unlawful act under the terms of

⁴¹ See MOU Sec. XII, Complaint Ex. D at 8.

⁴² Quoting *California v. Trump*, 786 F. Supp. 3d 359, 381 (D. Mass. 2025).

⁴³ See *City & County of San Francisco v. Trump*, 897 F.3d 1225, 1239-40 (9th Cir. 2018); *California v. Trump*, 786 F.Supp.3d 359, 381-82 (D. Mass. 2025); *LULAC v. Trump*, 780 F.Supp.3d 135, 176-77 (D.D.C. 2025).

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the agreement. Either it does that, or the entire agreement is invalid. Under no circumstances is the State required to violate the law.

Because the plaintiffs' reading of the MOU is not consistent with its terms or the way that contracts are interpreted, they have failed to state a viable cause of action regarding the MOU.

III. Conclusion

Because the plaintiffs lack standing to assert the constitutional privacy rights of voters, and because the defendants' actions did not violate those rights, this Court should dismiss Count 1 of the Amended Complaint. Because Counts 2, 3, and 4 are not ripe and rely on unsupported speculation that the defendants will violate state and federal law—despite their repeated public assurances to the contrary—in order to comply with *the plaintiffs' reading* of the MOU with the DOJ, those Counts should also be dismissed.

DATED August 14, 2026.

CORI MILLS
ACTING ATTORNEY GENERAL

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