

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

Jolt Initiative, Inc.,

Plaintiff,

v.

Ken Paxton, in his official capacity as  
Attorney General of Texas

Defendant.

Case No. 1:25-cv-001808-RP

**BRIEF OF *AMICUS CURIAE* CAMPAIGN LEGAL CENTER IN SUPPORT OF  
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

## TABLE OF CONTENTS

AMICUS CURIAE’S IDENTITY & INTERESTS.....	1
INTRODUCTION .....	2
ARGUMENT.....	3
I.    The Legislative History Supports Protections for Voter Assistance from Intimidation under Section 11(b).....	3
II.   The Text of Section 11(b) Contemplates the Type of Intimidation, Threats, and Coercion Begot by Defendants.....	7
III.  Actions Taken Under the Color of State Law can Violate Section 11(b).....	12
CONCLUSION.....	15

## TABLE OF AUTHORITIES

Cases	Pages
<i>Allen v. City of Graham</i> , No. 1:20-CV-997, 2021 WL 2223772 (M.D.N.C. June 2, 2021).....	11
<i>Blackledge v. Perry</i> , 417 U.S. 21, 28 (1974).....	13
<i>Bordenkircher v. Hayes</i> , 434 U.S. 357 (1978).....	13
<i>Bostock v. Clayton County, Georgia</i> , 590 U.S. 644 (2020).....	8
<i>Damon v. Hukowicz</i> , 964 F. Supp. 2d 120 (D. Mass. 2013).....	9
<i>Dombrowski v. Pfister</i> , 380 U.S. 479 (1965).....	12
<i>Halprin v. Prairie Single Family Homes of Dearborn Park Association</i> , 388 F.3d 327 (7th Cir. 2004).....	10
<i>Kennedy v. Meta Platforms, Inc.</i> , No. 3:24-CV-02869-WHO, 2024 WL 4031486 (N.D. Cal. Sep. 3, 2024).....	8
<i>League of United Latin American Citizens - Richmond Region Council 4614 v. Public Interest Legal Foundation (LULAC v. PILF)</i> , No. 1:18-CV-00423, 2018 WL 3848404 (E.D. Va. Aug. 13, 2018).....	8
<i>Leocal v. Ashcroft</i> , 543 U.S. 1 (2004).....	7
<i>National Association for Advancement of Colored People v. Alabama ex rel. Flowers</i> , 377 U.S. 288 (1964).....	13
<i>National Association for Advancement of Colored People v. State of Ala. ex rel. Patterson</i> , 357 U.S. 449 (1958).....	12
<i>National Association for Advancement of Colored People v. Thompson</i> , 357 F.2d 831 (5th Cir. 1966) .....	13
<i>National Coalition on Black Civic Participation v. Wohl</i> , 661 F. Supp. 3d 78 (S.D.N.Y. 2023) .....	13
<i>National Coalition on Black Civic Participation v. Wohl</i> , 498 F. Supp. 3d 457 (S.D.N.Y. 2020) .....	11
<i>Nieves v. Bartlett</i> , 587 U.S. 391 (2019).....	13
<i>People v. Horelick</i> , 424 F.2d 697 (2d Cir. 1970).....	9
<i>People Helpers, Inc. v. City of Richmond</i> , 789 F. Supp. 725 (E.D. Va. 1992).....	10
<i>Silverman v. Newspaper &amp; Mail Deliverers' Union of N.Y. and Vicinity</i> , No. 97-cv-0040 (RLE), 1999 WL 893398 (S.D.N.Y. Oct. 18, 1999).....	9, 10

<i>Spirit AeroSystems, Inc. v. Paxton</i> , No. 1:24-cv-472-DII, 2024 WL 5046345 (W.D. Tex. Dec. 9, 2024) .....	2
<i>The Ku Klux Cases</i> , 110 U.S. 651 (1884) .....	1
<i>United States v. Beaty</i> , 288 F.2d 653 (6th Cir. 1961) .....	9
<i>United States v. Bruce</i> , 353 F.2d 474 (5th Cir. 1965) .....	9
<i>United States v. Clark</i> , 249 F. Supp. 720, 728 (S.D. Ala. 1965) .....	12
<i>United States v. Harvey</i> , 250 F. Supp. 219 (E.D. La. 1966) .....	7
<i>United States v. Lauderdale County, Mississippi</i> , 914 F.3d 960 (5th Cir. 2019) .....	7
<i>United States v. McLeod</i> , 385 F.2d 734 (5th Cir. 1967) .....	11, 13, 14
<i>United States v. Nguyen</i> , 673 F.3d 1259 (9th Cir. 2012) .....	10
<i>United States v. Wood</i> , 295 F.2d 772 (5th Cir. 1961) .....	12
<i>Whatley v. City of Vidalia</i> , 399 F.2d 521 (5th Cir. 1968) .....	11, 12, 15
<b>Statutes</b>	
42 U.S.C. § 1985(2) .....	9
42 U.S.C. § 3617 .....	10
52 U.S.C. § 10101(b) .....	9
52 U.S.C. § 10307 .....	7, 8, 11, 13
52 U.S.C. § 10307(b) .....	3
<b>Other Authorities</b>	
<i>Alabama civil rights activist Maggie Bozeman dies</i> , Tuscaloosa News (Aug. 29, 2004), <a href="https://www.tuscaloosanews.com/story/news/2004/08/29/alabama-civil-rights-activist-maggie-bozeman-dies/27873342007/">https://www.tuscaloosanews.com/story/news/2004/08/29/alabama-civil-rights-activist-maggie-bozeman-dies/27873342007/</a> .....	6
Ari Berman, <i>Give Us the Ballot</i> (2015) .....	5, 6
Ben Cady & Tom Glazer, <i>Voters Strike Back: Litigating against Modern Voter Intimidation</i> , 39 N.Y.U. REV. L. & SOC. CHANGE 173 (2015) .....	2
Edgar Sandoval, <i>Latino Civil Rights Group Demands Inquiry Into Texas Voter Fraud Raids</i> , N.Y. Times (Aug. 25, 2024), <a href="https://www.nytimes.com/2024/08/25/us/texas-latinos-democrats-raids-paxton.html">https://www.nytimes.com/2024/08/25/us/texas-latinos-democrats-raids-paxton.html</a> .....	15

<i>Extension of the Voting Rights Act: Hearings Before the H. Subcomm. on Civil and Constitutional Rights (Part 2)</i> , 97th Cong. (1981) .....	6
<i>Extension of the Voting Rights Act: Hearings on H.R. 939, H.R. 2148, H.R. 3247, and H.R. 3501 Before the H. Subcomm. on Civil and Constitutional Rights (Part 1)</i> , 94th Cong. (1975) .....	5
J. David Goodman and Edgar Sandoval, <i>Texas Attorney General Sues to Stop Voter Registration Push in San Antonio</i> , N.Y. Times (Sep. 4, 2024), <a href="https://www.nytimes.com/2024/09/04/us/texas-voter-registration-paxton-bexar.html">https://www.nytimes.com/2024/09/04/us/texas-voter-registration-paxton-bexar.html</a> .....	14
<i>Prosecutorial Discretion</i> , 39 Geo. L.J. Ann. Rev. Crim. Proc. 223 (2010) .....	14
S. Rep. 94-295 (1975), as reprinted in 1975 U.S.C.C.A.N. 774 .....	5
S. Rep. 97-417 (1982), as reprinted in 1982 U.S.C.C.A.N. 177 .....	3, 6
Theodore Z. Wyman, <i>Litigation of Voter Intimidation Law</i> , 174 Am. Jur. Trials 385 (2022) .....	7
<i>Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 1)</i> , 89th Cong. (1965) .....	2, 4
<i>Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 2)</i> , 89th Cong. (1965) .....	4
Voting Rights Fact Sheet, U.S. Department of Justice (Sep. 2024), <a href="https://www.justice.gov/crt/media/1366636/dl">https://www.justice.gov/crt/media/1366636/dl</a> .....	11
Webster’s Third New International Dictionary 438 (1966) .....	8

### **AMICUS CURIAE’S IDENTITY & INTERESTS**

*Amicus curiae* Campaign Legal Center (“CLC”) is a nonpartisan, nonprofit organization that has been working for nearly two decades to advance democracy through law. *Amicus* CLC has litigated several prominent voting rights cases, including as lead counsel in *Gill v. Whitford*, 138 S. Ct. 1916 (2018) (redistricting), *Husted v. A. Philip Randolph Institute*, 138 S. Ct. 1833 (2018) (NVRA), *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc) (VRA), *Jones v. DeSantis*, 975 F.3d 1016 (11th Cir. 2020) (en banc) (felony disenfranchisement law), *Clarke v. Wisconsin Elections Commission*, 2023 WI 79, 410 Wis. 2d 1, 998 N.W.2d 370, *reconsideration denied* (Jan. 11, 2024) (redistricting), and *Mi Familia Vota v. Fontes*, No. CV-22-00509, 2024 WL 2244338 (D. Ariz. May 2, 2024) (Arizona Documentary Proof of Citizenship).

*Amicus* CLC has expertise in voter intimidation claims. CLC, including through its affiliate CLC Action, has submitted *amicus curiae* briefs in numerous voter intimidation and political violence cases. *See, e.g., Andrews v. D’Souza*, No. 1:22-cv-04259 (N.D. Ga. 2023); *Cervini v. Cisneros*, No. 1:21-cv-565 (W.D. Tex. 2021); *LULAC v. Pub. Int. Legal Found.*, No. 1:18-cv-00423 (E.D. Va. 2018); *Cockrum v. Donald J. Trump for President, Inc.*, No. 3:18-cv-484 (E.D. Va. 2018); *New York Immigr. Coal. v. Rensselaer Cnty. Bd. of Elections*, No. 1:19-cv-920 (N.D.N.Y. 2019); *Blassingame v. Trump*, No. 2:21-cv-858 (D.D.C. 2021); *Lee v. Trump*, No. 1:21-cv-400 (D.D.C. 2021); *Swalwell v. Trump*, No. 1:21-cv-586 (D.D.C. 2021). CLC has a demonstrated interest in the interpretation of voter intimidation laws that protect voters and the proper functioning of democracy.

## INTRODUCTION

After enforcement of existing legislation failed to root out intimidation and political corruption, Congress enacted Section 11(b) of the Voting Rights Act to finally protect those “who vote[] from personal violence or intimidation, and the election itself from corruption or fraud[.]” *The Ku Klux Cases*, 110 U.S. 651, 661 (1884). Congress purposefully drafted a broad statute to effectuate these aims, which prior statutes – the Civil Rights Act of 1957 and the Ku Klux Klan Act of 1871 – failed to completely remedy. *See Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 1)*, 89th Cong. 12 (1965) (statement of Nicolas Katzenbach, United States Attorney General); *see also* Ben Cady & Tom Glazer, *Voters Strike Back: Litigating against Modern Voter Intimidation*, 39 N.Y.U. REV. L. & SOC. CHANGE 173, 190 (2015). Emerging out of the Civil Rights Movement and in response to the enduring issue of minority disenfranchisement, Section 11(b) was part of a comprehensive package of robust federal protections to change the circumstances on the ground for voters across the country and create equal opportunities for all to participate in our elections. Specifically, Congress was concerned about restrictions on voter assistance achieved via intimidation and threats lodged against civil rights groups by state and private actors, which was viewed as a restriction on voting itself – i.e. the kind of intimidation that occurred here. Plaintiff Jolt Initiative helps register Latino voters and encourages those voters to exercise their voting rights in Texas. ECF 1 at 3-6. Defendant Ken Paxton has weaponized the powers of the State to intimidate Jolt from conducting constitutionally protected activity—registering eligible citizens to vote. First, Defendant unsuccessfully attempted to gain access to Plaintiff’s confidential documents related to its voter registration and advocacy activities, but the statute leveraged by Defendant was found to be unconstitutional. *Spirit AeroSystems, Inc. v. Paxton*, No. 1:24-cv-472-DII, 2024 WL 5046345, at \*1 (W.D. Tex. Dec. 9,

2024), *vacated and remanded*, 142 F.4th 278 (5th Cir. 2025).<sup>1</sup> Now, Defendant, through a quo warranto action, threatens Plaintiff’s very existence in an effort to thwart lawful voter registration activity of Latino voters. Defendant’s actions violate Section 11(b), which provides broad protections against intimidation, threats, and coercion of voter assistance organizations, including those who experience abuse of state power based on their voter assistance activity.

### **ARGUMENT**

*Amicus* CLC submits this brief to clarify the interpretation and application of Section 11(b) of the VRA. 52 U.S.C. § 10307(b). *Amicus* specifically addresses the scope of coverage provided by Section 11(b). The legislative history of Section 11(b), a textual understanding of “intimidation,” and Fifth Circuit precedent, as well as the common understanding of term “intimidation,” all support Plaintiff’s allegations that Defendant’s use of the state’s police power can constitute “intimidation,” “threat,” or “coercion” within the meaning of the statute.

#### **I. The Legislative History Supports Protections for Voter Assistance from Intimidation under Section 11(b).**

It is axiomatic that the Voting Rights Act of 1965, including Section 11(b), intends to protect organizations from interference by intimidation, coercion, or threat in assisting eligible individuals in registering to vote. 52 U.S.C. § 10307(b) (prohibiting intimidation of “urging or aiding any person” in voter registration and voting). Indeed, Congress explicitly considered the “intimidation and harassment of voters or others” in the pursuit of voting and voter registration as a “troubling” trend which needed to be addressed in order to eliminate voting discrimination writ large. S. Rep. 97-417, at 54 (1982), *as reprinted in* 1982 U.S.C.C.A.N. 177, 233. This includes the

---

<sup>1</sup> This decision has been remanded based on subsequent developments in the Texas Supreme Court regarding interpretation of the statute at issue. The Texas Supreme Court has now held additional procedural protections are mandated by the statute which were not provided when previously applied.

form of intimidation in this case: abuse of state power to intimidate, threaten, or coerce voter assistance and voter registration organizations from conducting such work.

Congress's intent to protect the rights of voter organizations from intimidation via state interference with voter assistance activities is evident throughout the history of the Voting Rights Act's passage and reauthorization. During the hearings on the original passage of the Act, civil rights organizations testified to the intimidation they faced in undertaking voter registration.<sup>2</sup> Congress surveyed numerous cases brought by the U.S. Department of Justice where abuses of government power against both voters and those registering voters resulted in intimidation suppressing political engagement of Black citizens.<sup>3</sup> In his testimony to Congress, Attorney General Katzenbach noted the number of lawsuits filed by the Department of Justice against state actors attempting to prevent Black voter registration through "physical violence and baseless arrests and prosecutions." *Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 1)*, 89th Cong. 12 (1965) (statement of Nicolas Katzenbach, United States Attorney General). He further noted that "fear" wrought by state actors abusing their authority was an "obstacle" that was "sometimes more subtle, certainly more damaging." *Id.* It was that "fear" that gave rise to Section 11(b), written specifically by Katzenbach and members of Congress to improve upon existing voter intimidation laws to ensure that actors would be held accountable for "the natural consequences of their acts." *Id.* at 16.

---

<sup>2</sup> E.g., *Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 2)*, 89th Cong. 996-97 (1965) (statement of Sidney Zagri, International Brotherhood of Teamsters); *id.* at 1292, 1302, 1307 (1964 Status report of the Civil Rights Division of the Department of Justice documenting instances of voter intimidation against civil rights organizations).

<sup>3</sup> *Id.*; see also *Voting Rights Act of 1965: Hearings on S. 1564 Before the S. Comm. on the Judiciary (Part 1)*, 89th Cong. 12 (1965).

During the passage of the 1975 amendments to the Act, Congress took an extensive look specifically at the “acts of physical, economic, and political intimidation” of language-minority citizens in Texas and the “economic reprisals against minority political activity” as a “a major deterrent to the political participation of language minorities” in Texas and across the country. S. Rep. 94-295, at 26 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 774, 792.<sup>4</sup> As Modesto Rodriguez of the La Raza Unida Party testified to Congress at the time, this intimidation included economic reprisals by lending institutions, who refused to finance individuals who were involved in political organizations seeking to register Hispanic and Latino voters in Texas. *See* Ari Berman, *Give Us the Ballot* 106 (2015). And “[w]hen economic intimidation didn’t work, the Anglo power structure . . . turned to politics” and abuses of power. *Id.* In Frio County, Texas, for example, the county judge used his subpoena power to target hundreds of Chicano voters “for alleged election irregularities.” *Id.* at 106-07. Those subpoenas “had a chilling effect on Chicano political participation,” and turnout decreased in the next election. *Id.* at 107. Finally, after testifying about his experience, Mr. Rodriguez was nearly beaten to death by Frio County police officers. *Id.* at 111-12. Mr. Rodriguez’s harrowing testimony, and the cruel treatment his testimony incurred, led to the overwhelming reauthorization of the Voting Rights Act, including to maintain the protections under Section 11(b). *See id.*; *Extension of the Voting Rights Act: Hearings on H.R. 939, H.R. 2148, H.R. 3247, and H.R. 3501 Before the H. Subcomm. on Civil and Constitutional Rights (Part 1)*, 94th Cong. 519-28 (1975) (testimony of Modesto Rodriguez).

In passing the 1982 amendments, Congress specifically cited concerns with ongoing intimidation of voters and organizations as necessitating several amendments to the Act. The

---

<sup>4</sup> These concerns drove the additional protections under Section 203 of the Voting Rights Act for language minority voters. *See generally* S. Rep. 94-295, at 26 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 774, 792.

concerns about voter intimidation via state interference with voter assistance were also top of mind during the 1982 reauthorization. For example, one of the driving forces behind Congress’s decision to reauthorize Sections 4 and 5 was “the realization that the abuses which take the form of voting changes . . . range broadly from intimidation and harassment to discouragement of registration and voting[.]” S. Rep. 97-417, at 14 (1982), *as reprinted in* 1982 U.S.C.C.A.N. 177, 191. Congress was specifically concerned that “intimidation and harassment of voters or others seeking to exercise rights protected by the Voting Rights Act are especially troubling because of the long-term impact it will have on such persons and their communities.” S. Rep. 97-417, at 54 (1982), *as reprinted in* 1982 U.S.C.C.A.N. 177, 223 (discussing amendments to Section 4 of the Voting Rights Act). Likewise, NAACP organizer Maggie Bozeman testified that “[o]ne of the most annoying things black voters face in Pickens County[, Alabama] in trying to register is steady pressure of the law enforcement officers.” *Extension of the Voting Rights Act: Hearings Before the H. Subcomm. on Civil and Constitutional Rights (Part 2)*, 97th Cong. 1565 (1981) (law enforcement officials would “snoop” and investigate those conducting voter registration). Specifically, she testified about the resistance to voter registration drives by local officials; “[r]arely have we conducted a voters registration drive in Pickens County which has not met with, some resistance from local officials.” *Id.* Ms. Bozeman herself was arrested for attempting to assist registered voters, and her conviction was later thrown out.<sup>5</sup> Her testimony to Congress about the ongoing use of state power to intimidate voter assistors inspired members of Congress to support the reauthorization of the Voting Rights Act. *See generally id.* at 1583-85; Ari Berman, *Give Us the Ballot* 138-40 (2015).

---

<sup>5</sup> *See Alabama civil rights activist Maggie Bozeman dies*, Tuscaloosa News (Aug. 29, 2004), <https://www.tuscaloosaneews.com/story/news/2004/08/29/alabama-civil-rights-activist-maggie-bozeman-dies/27873342007/>.

For these reasons, Congress has considered it necessary to protect civil rights groups from intimidation by state authorities, making no substantive changes to the language since its original passage in 1965, and *increasing* such protections in other provisions of the Act.

## **II. The Text of Section 11(b) Contemplates the Type of Intimidation, Threats, and Coercion Begot by Defendants.**

Section 11(b) proscribes “intimidat[ing], threaten[ing], or coerc[ing], or attempt[ing] to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote,” 52 U.S.C. § 10307, precisely the intimidating conduct that Defendant has committed. In statutory interpretation, words are given “their ‘ordinary or natural’ meaning.” *Leocal v. Ashcroft*, 543 U.S. 1, 8-9 (2004) (quoting *Smith v. United States*, 508 U.S. 223, 228 (1993)); *see also United States v. Lauderdale Cnty., Miss.*, 914 F.3d 960, 964 (5th Cir. 2019) (“[W]e look first to the word’s ordinary meaning.”) (internal quotations omitted). To understand the natural and ordinary meaning of Section 11(b), the court may look to both the dictionary definition of “intimidation” and the interpretation of the word “intimidation” in the context of other civil rights cases. Additionally, precedent and guidance by the Department of Justice make clear that Section 11(b) protects not only voters themselves, but those assisting voters from intimidation. Each of these sources indicate that Defendant’s actions fall squarely within the conduct prohibited by Section 11(b).

In the mid-1960’s—when Congress wrote and enacted Section 11(b)—Webster’s Dictionary defined the word “intimidate” as “to frighten; to make timid or fearful; to inspire or affect with fear; to deter, as by threats.” *See United States v. Harvey*, 250 F. Supp. 219, 236 (E.D. La. 1966) (quoting Webster’s Dictionary); *see also* Theodore Z. Wyman, *Litigation of Voter Intimidation Law*, 174 Am. Jur. Trials 385 (2022) (discussing the “expansive” definition of intimidation under Section 11(b)). “Threaten” meant to “utter threats against” or “promise punishment, reprisal, or other distress”) and “coerce” as to “restrain, control, or dominate,

nullifying individual will or desire (as by force, power, violence, or intimidation).” *See* Webster’s Third New International Dictionary 438, 1183 (1966). These definitions are overlapping and do not prescribe the *form* by which the intimidation, threat, or coercion must take place, be it by communication or the use of state police power. Nor do these definitions cabin “intimidation” “threats” or “coercion” to particular methods—whether physical, psychological, or otherwise. The statute itself similarly makes no mention of cabining the terms to certain methods. “Only the written word is the law” and “when the meaning of the statute’s terms is plain, [the court’s] job is at an end.” *Bostock v. Clayton Cnty., Georgia*, 590 U.S. 644, 653, 674 (2020). Thus, a plain reading of “intimidation,” “threats,” and “coercion” within Section 11(b) proscribes any conduct or communication that makes one timid or fearful to “urg[e] or aid[] any person to vote or attempt to vote,” 52 U.S.C. § 10307, and Section 11(b) is not limited to communications nor overt displays of physical force and violence, but extends to a range of conduct that would reasonably place an individual in fear.<sup>6</sup> *See, e.g., League of United Latin Am. Citizens - Richmond Region Council 4614 v. Pub. Int. Legal Found. (LULAC v. PILF)*, No. 1:18-CV-00423, 2018 WL 3848404, at \*1-

---

<sup>6</sup> A district court recently highlighted the multiple ways voter intimidation may materialize: “Examples of threatened ‘legal consequences’ that a reasonable person, familiar with context, would view as a threat of injury to deter her from voting include: threats that police will use voter information to find and enforce old warrants; a pattern of baseless arrests at a voter registration event; threats of deportation against lawful citizens who are immigrants and their family members; and threats of filing a lawsuit against someone or suspending them without pay. Examples of threatened ‘economic harm’ that a reasonable person, familiar with context, would view as a threat of injury to deter her from voting include threats of ‘adverse economic consequences,’ such as: threatening to give personal information to debt collectors to collect outstanding debt; evicting or threatening to evict sharecroppers from their land or otherwise interfering with their sharecropping contracts; inducing local merchants to boycott and refuse to provide necessities to anyone who helps register voters; and prohibiting an insurance broker from accessing land to talk to his clients, and therefore preventing him from carrying out his profession, because of the broker’s voter registration efforts. Additionally, publishing names, addresses, and phone numbers of registered voters in a report accusing them of committing various felonies also constitutes threats and intimidation under § 11(b), both because of the ‘clear effort to subject the named individuals to public opprobrium’ and the ‘fear of harassment and interference with their right to vote’ that the named individuals experienced.” *Kennedy v. Meta Platforms, Inc.*, No. 3:24-CV-02869-WHO, 2024 WL 4031486, at \*7 (N.D. Cal. Sep. 3, 2024) (citations omitted).

4 (E.D. Va. Aug. 13, 2018) (finding that the publication of a list of individuals’ names and personal information in “a report condemning felonious voter registration in a clear effort to subject the named individuals to public opprobrium” was sufficient to show a finding of intimidation).

Courts have similarly held that the term “intimidate” in other civil rights laws is not limited to communications or physical violence. In interpreting the term “intimidate” in the context of Section 131(b) of the Civil Rights Act, 52 U.S.C. § 10101(b), federal courts have found that “threats, intimidation, or coercion may take on [many] forms.” *U.S. v. Beaty*, 288 F.2d 653, 656 (6th Cir. 1961); *U.S. v. Bruce*, 353 F.2d 474, 476-77 (5th Cir. 1965) (finding that declining to renew a teacher’s contract “as a means of coercing or intimidating the teacher as to her right to vote” was sufficient to show intimidation); *People v. Horelick*, 424 F.2d 697, 703 (2d Cir. 1970) (noting that 18 U.S.C. § 245(b) is “[u]nlike the voting rights acts” (including Section 131(b)), in that Section 245(b) requires “force or threat of force.”). Likewise, state civil rights law has defined “‘Intimidation’ [as] putting a person in fear for the purpose of compelling or deterring his or her conduct. . . [and] ‘Coercion’ [as] application of physical or moral force to another to constrain him to do against his will something he would not otherwise do.” *Damon v. Hukowicz*, 964 F. Supp. 2d 120, 149 (D. Mass. 2013) (finding in an analogous civil rights context that “[i]ntimidation means putting a person in fear for the purpose of compelling or deterring his or conduct”).

Another similar use of the term can be found in 42 U.S.C. § 1985(2), which prohibits conspiracies to intimidate parties or witnesses in connection with legal proceedings. In interpreting that section, a district court held that emotional stress, not merely physical injury, could give rise to a claim for witness intimidation under that provision. *Silverman v. Newspaper & Mail Deliverers’ Union of N.Y. and Vicinity*, No. 97-cv-0040 (RLE), 1999 WL 893398, at \*4 (S.D.N.Y. Oct. 18, 1999). The court explained that though the Civil Rights Act of 1871 was “adopted to

address physical intimidation . . . which often resulted from Klan violence,” this “was not the only goal of the statute.” *Id.* Further, the court found that the statute was “also designed to address improper interference with the judicial process,” and therefore the plaintiff could bring a claim alleging that there was interference “with the witness’ ability to give ‘free, full and truthful testimony’ in federal court.” *Id.*

Similarly, 42 U.S.C. § 3617 makes it unlawful to “intimidate, threaten, or interfere with” a person for enjoying or exercising fair housing rights. In cases involving this statute, courts have held that plaintiffs stated claims for intimidation regardless of whether defendants’ conduct included physical violence. *See, e.g., People Helpers, Inc. v. City of Richmond*, 789 F. Supp. 725, 733 (E.D. Va. 1992) (excessive investigations by the city of a rental property can constitute intimidation); *Halprin v. Prairie Single Family Homes of Dearborn Park Ass’n*, 388 F.3d 327, 330 (7th Cir. 2004) (recognizing that intimidation can constitute fearful activity aside from a physical confrontation, including sexual harassment, economic pressure, or patterns of harassment).

Cases involving state statutes prohibiting electoral intimidation likewise demonstrate the broad scope of intimidation contemplated by Congress in civil rights law. In *United States v. Nguyen*, the defendant was alleged to have engaged in a campaign to mail 14,000 letters to newly registered voters with Hispanic surnames warning the recipients that if they voted in the election, their personal information would be collected by the government and made available to organizations that were “against immigration.” 673 F.3d 1259, 1261 (9th Cir. 2012). That court found that, for purposes of California’s state voter intimidation statute, the word “intimidation” is not “limited to displays or applications of force, but can be achieved through manipulation and suggestion,” that is, intimidation may be “subtle, rather than forcefully coercive.” *Id.* at 1265.

This textual understanding that words are given their ordinary or natural meaning also supports the Fifth Circuit’s straightforward position that Section 11(b)’s protection of “urging or aiding any person to vote or attempt to vote,” 52 U.S.C. § 10307, encompasses “the assisting of others in registering to vote.” *Whatley v. City of Vidalia*, 399 F.2d 521, 526 (5th Cir. 1968) (discussing the legislative text of Section 11(b) to come to this conclusion). The Fifth Circuit has recognized that “[r]egistration is a critical, inseparable part of the electoral process.” *United States v. McLeod*, 385 F.2d 734, 740 (5th Cir. 1967) (cleaned up). Other district courts have too noted, “Section 11(b)’s reach is extensive,” and its protections extend “not just [to] voting, but to other voting-related conduct, including . . . encouraging others to vote or helping register other voters.” *Nat’l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 476 (S.D.N.Y. 2020); *see also Allen v. City of Graham*, No. 1:20-CV-997, 2021 WL 2223772, at \*8 (M.D.N.C. June 2, 2021). Likewise, the U.S. Department of Justice has instructed that Section 11(b) “protects not only voters, but also those who help them or who facilitate voting or registering to vote, including election officials and volunteers. The prohibitions apply to both private and government actors.” Voting Rights Fact Sheet, U.S. Department of Justice (Sep. 2024), <https://www.justice.gov/crt/media/1366636/dl>.

Thus, the plain text of Section 11(b), precedent applying it and analogous law, and the law’s purpose all make clear that Section 11(b) protects any person or organization from intimidation or attempted intimidation for providing voter assistance or voter registration. Here, Plaintiff has been placed in fear of serious adverse legal and economic consequences, in other words intimidated, threatened, and coerced, by Defendant’s “spurious” quo warranto action to revoke their corporate charter and registration because of Plaintiff’s lawful voter registration and assistance activity—Defendant has violated Section 11(b). *Whatley*, 399 F.2d at 526.

### III. Actions Taken Under the Color of State Law can Violate Section 11(b).

Courts have long understood that the state’s weaponization of power can run the risk of political harassment or intimidation. This is true even where, as here, the state alleges unlawful activity has occurred.

The Fifth Circuit has held that “official acts of harassment” can constitute voter intimidation under Section 11(b). *Whatley*, 399 F.2d at 526. Official acts of harassment can take the shape of baseless arrests, investigations, or prosecutions, improper threats of legal consequences, or harassing use of subpoena power. *Id.* (baseless arrests and prosecutions); *United States v. Wood*, 295 F.2d 772 (5th Cir. 1961) (same); *United States v. Clark*, 249 F. Supp. 720, 728 (S.D. Ala. 1965) (same); *Dombrowski v. Pfister*, 380 U.S. 479, 490 (1965) (unsubstantiated threats to invoke criminal processes violated the intimidation provision of the Civil Rights Act); *c.f. NAACP v. State of Alabama ex rel. Patterson*, 357 U.S. 449 (1958) (seizures of documents and records unconstitutional). Courts have found that “the effect of baseless arrests, unjustified prosecutions, unwarranted and illegal injunctions, and any other acts or conduct—official or otherwise, but particularly official—upon individuals so subjected who are legally seeking to exercise their rights” can “severely discourage, intimidate, threaten and coerce those citizens who are seeking or might otherwise seek to exercise the rights involved.” *United States v. Clark*, 249 F. Supp. at 728 (granting an injunction against local officials who engaged in baseless arrests and prosecutions of Black citizens attempting to vote under the voter intimidation prohibition of the Civil Rights Act).

Prosecutions or other adverse government actions taken in retaliation for the exercise of rights can violate the constitution. “To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort . . . and for an agent of the State

to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is patently unconstitutional.” *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978) (cleaned up) (discussing what rises to the level of vindictive prosecution); *see also Nieves v. Bartlett*, 587 U.S. 391, 402 (2019) (describing the elements of a First Amendment retaliation claim). In holding that prosecutions can violate constitutional rights, the Supreme Court emphasized that even “the fear of . . . vindictiveness may unconstitutionally deter a defendant’s exercise” of rights. *Blackledge v. Perry*, 417 U.S. 21, 28 (1974). Courts’ recognition that government action taken under color of state law, including baseless or vindictive prosecutions, can have the practical effect of discouraging the exercise of an array of political rights contextualizes how such actions can constitute voter intimidation under Section 11(b).

The relevant question here, therefore, is not whether Defendant leveraged lawful powers the Attorney General holds, but whether the quo warranto action was used to intimidate, threaten, or coerce a person assisting another in voting. 52 U.S.C. § 10307. To illustrate, when considering whether a grand jury investigation was a “patent sham” in violation of the voter intimidation provision of the Civil Rights Act, the Fifth Circuit held that the “evidence is overwhelming that the purpose . . . was not to ascertain violations of state law, but rather to harass and obstruct the operations” of the party being investigated. *McLeod*, 385 F.2d at 751.

Indeed, government prosecution is more likely to be considered unlawful intimidation or coercion when coupled with threats to cease organizational activities, such as here, where Defendant is seeking revoke Plaintiff’s corporate charter and registration. *See* Ex. B; *see also, e.g., NAACP v. Thompson*, 357 F.2d 831, 839-40 (5th Cir. 1966); *NAACP v. Alabama ex rel. Flowers*, 377 U.S. 288 (1964). While intent is not a required element to establish a Section 11(b) claim, *Nat’l Coal. on Black Civic Participation*, 661 F. Supp. 3d 78, 116 (S.D.N.Y. 2023), courts can

inquire into the motives of the action taken under color of state law and weigh the evidence presented to support such action to determine if such action was indeed baseless or spurious. *McLeod*, 385 F.2d at 751. In this case, while Defendant claims to prosecute the quo warranto action because Plaintiff has engaged in unlawful voter registration activities, Ex. B, Defendant has not initiated any criminal proceedings for such action against Plaintiff, nor has Defendant produced with their quo warranto action any “evidence whatsoever to indicate even a scintilla of substance in these charges.” *McLeod*, 385 F.2d at 751. In fact, the only evidence that Defendant proffers is a conjectural, attenuated link between Jolt’s voter registration drives outside DMV locations and the fact that “U.S. citizens can already register to vote at any DMV with proof of citizenship.” ECF 1-4 at 6. Thus, “every indication is that the” quo warranto action was not instigated “to redress violations of the law, but simply to harass voting workers.” *McLeod*, 385 F.2d at 744. In the vindictive prosecution context, courts have found that reindictment with an increase in severity of charges and additional charges after exercising constitutional rights—both of which are present here—create a presumption of vindictive prosecution. *Prosecutorial Discretion*, 39 Geo. L.J. Ann. Rev. Crim. Proc. 223, 234 (2010).

Additionally, when considering whether a government prosecution rises to the level of intimidation, such government actions must be considered “against the background of contemporaneous events in [Texas] and the general climate prevailing there at the time.” *McLeod*, 385 F.2d. at 740 (finding that a county’s government actions led to intimidating and coercive activity against persons registering Black voters). Here, Defendant has engaged in a sustained campaign to thwart voter registration efforts in Texas<sup>7</sup> and has specifically targeted organizations

---

<sup>7</sup> J. David Goodman and Edgar Sandoval, *Texas Attorney General Sues to Stop Voter Registration Push in San Antonio*, N.Y. Times (Sep. 4, 2024), <https://www.nytimes.com/2024/09/04/us/texas-voter-registration-paxton-bexar.html>.

serving Latino voters,<sup>8</sup> and Plaintiff specifically. ECF 1 at 6-11, 17-18; *see also Jolt Initiative, Inc. v. Paxton*, 1:24-cv-1089-RP (W.D. Tex. Oct. 23, 2025).

Defendant's quo warranto action is an act of "official harassment" made to intimidate, threaten, and coerce Plaintiff from providing voter registration and assistance in violation of Section 11(b). *Whatley*, 399 F.2d at 526.

### **CONCLUSION**

For the above reasons, *Amicus* CLC urges the Court to grant Plaintiff's motion for a preliminary injunction.

Dated: December 8, 2025

Respectfully submitted,

/s/ Ketan U. Kharod

Mary Whittle  
Texas Bar No. 24033336  
Ketan U. Kharod  
Texas Bar No. 24027105  
**GUERRERO & WHITTLE, PLLC**

2905 San Gabriel Street, Suite 309  
Austin, Texas 78705  
P (512) 610-2331  
F (512) 222-5280  
mary@gwjustice.com  
ketan@gwjustice.com

Alice Huling\* (DC Bar No. 1644296)  
Valencia Richardson\* (DC Bar No. 1739245)  
Rachel Appel\* (DC Bar No. 90017750)

**CAMPAIGN LEGAL CENTER**  
1101 14th Street, NW, St. 400  
Washington, D.C. 20005

---

<sup>8</sup> Edgar Sandoval, *Latino Civil Rights Group Demands Inquiry Into Texas Voter Fraud Raids*, N.Y. Times (Aug. 25, 2024), <https://www.nytimes.com/2024/08/25/us/texas-latinos-democrats-raids-paxton.html>.

Telephone: (202) 736-2200  
Facsimile: (202) 736-2222  
ahuling@campaignlegalcenter.org  
vrichardson@campaignlegalcenter.org  
rappel@campaignlegalcenter.org

*Counsel for Amicus Curiae  
Campaign Legal Center*

\* Motion for admission *pro hac vice*  
forthcoming.

**CERTIFICATE OF SERVICE**

I certify that on December 8, 2025, I served the foregoing upon all counsel of record via the Court's electronic case file (ECF) system.

/s/ Ketan U. Kharod  
Ketan U. Kharod